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UNITED STATES STATUTES SUPPLEMENT

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1921 SUPPLEMENT BARNES' FEDERAL CODE

**CONTAINING
ALL FEDERAL STATUTES OF GENERAL AND
PUBLIC NATURE ENACTED DURING
THE YEARS 1919 AND 1920
WITH
FULL TABLES OF STATUTES AND
CROSS REFERENCES.**

**EDITED BY
URIAH BARNES
ON THE SAME PLAN AS THE ORIGINAL WORK**

**INDIANAPOLIS
THE BOBBS-MERRILL COMPANY
PUBLISHERS**

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MAR 12 1921

PREFACE

WITHIN the present volume, covering completely the years 1919 and 1920, are embraced all federal statutes of general character enacted subsequent to the laws contained in *Barnes' Federal Code*. That compilation covered the statutes to the end of the year 1918. The classification of the new legislation and the editorial details herein follow the plan of the original work, the serial sections of which are preserved wherever the new matter supersedes or is amendatory of the prior law.

Painstaking care has been exercised to make the index clear, accurate and complete. The full chronological table of laws carries in every instance chapter and page citations to the official *Statutes at Large*; and parallel references have been added covering the *Revised Statutes* and the *Judicial and Criminal Codes*, as well as a list of important acts by popular name. Familiarity with and free use of these various tables will be found of great practical service and value in the study, identification or location of any particular statute under investigation.

The variety and vital significance of recent federal legislation will excite unusual interest on the part of lawyers and the public generally. The enactments covering taxation, prohibition, transportation trade and commerce, included in this book rank with the most important statutes ever passed by the American Congress.

URIAH BARNES.

CHARLESTON, W. VA.

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LIST OF ABBREVIATIONS

C. C. = Criminal Code.

J. C. = Judicial Code.

R. S. = Revised Statutes of United States.

Stat. = United States Statutes at Large.

TABLES OF STATUTES

I. Revised Statutes of United States With parallel section references to this supplement

R. S.	HEREIN	R. S.	HEREIN	R. S.	HEREIN
527	639	1156	1522	3264	5188
541	861	1162	1526	3315	5260
542	861	1168	1506	3354	5331
543	862	1238	1514	3360	5338
714	1026	1239	1514	3362	5339
726	1043	1289	1790	3538	5774
1049	901	1318	1858	3595	5858
1094	1495	1342	1902	3936	6776
1094	1506	1519	2231	4017	6908
1094	1526	1615	2438	4017	6909
1094	1531	2138	3552	4530	7552
1094	1553	3164	5060	4878	8913
1095	1571	3165	5061	4935	8987
1096	1531	3167	5063	4939	8994
1097	1531	3172	5071	5172	9206
1110	1526	3173	5072	5182	9212
1119	1562	3176	5075	5200	9234
1121	1553	3220	5120	5202	9236
1128	1481	3225	5124		
1132	1495	3255	5177		

II. Chronological Table of Laws

NOTE.—The first three columns give the dates, chapters and sections of the acts in the chronological order of their enactment; the fourth and fifth columns, citations by volume and page to the official *Statutes at Large*; the sixth column contains section references to this supplement.

1919					1919					1919							
Date	Ch.	Vol.	Sec.	Herein	Date	Ch.	Vol.	Sec.	Herein	Date	Ch.	Vol.	Sec.	Herein			
JAN.					FEB.					FEB.							
12	7	—	40	1054	2450a	24	18	224	40	1074	5536	24	18	320	40	1091	5574
12	8	—	40	1054	2297a	24	18	225	40	1074	5537	24	18	325	40	1091	5575
25	10	—	40	1055	633	24	18	226	40	1075	5538	24	18	326	40	1092	5576
FEB.					24	18	227	40	1075	5539	24	18	327	40	1093	5577	
4	13	—	40	1055	4309a	24	18	228	40	1075	5540	24	18	328	40	1093	5578
4	14	1	40	1056	2215a	24	18	230	40	1075	5541	24	18	330	40	1094	5579
4	14	2	40	1056	2215a	24	18	231	40	1076	5542	24	18	331	40	1095	5580
4	14	3	40	1056	2215a	24	18	232	40	1077	5543	24	18	335	40	1095	5581
4	14	4	40	1056	2215b	24	18	233	40	1077	5544	24	18	336	40	1096	5582
4	14	5	40	1056	2215c	24	18	234	40	1077	5545	24	18	337	40	1096	5583
4	14	6	40	1056	2215d	24	18	235	40	1080	5546	24	18	400	40	1096	5584
4	14	7	40	1057	2215e	24	18	236	40	1080	5547	24	18	401	40	1096	5585
4	14	8	40	1057	2215f	24	18	237	40	1080	5548	24	18	402	40	1097	5586
4	14	9	40	1057	2215g	24	18	238	40	1080	5549	24	18	403	40	1098	5587
24	18	1	40	1057	5514	24	18	239	40	1081	5550	24	18	404	40	1099	5588
24	18	200	40	1058	5515	24	18	240	40	1081	5551	24	18	405	40	1099	5589
24	18	201	40	1059	5516	24	18	241	40	1082	5552	24	18	406	40	1099	5590
24	18	202	40	1060	5517	24	18	250	40	1082	5553	24	18	407	40	1100	5591
24	18	203	40	1060	5518	24	18	251	40	1084	5554	24	18	408	40	1100	5592
24	18	204	40	1060	5519	24	18	252	40	1085	5555	24	18	409	40	1100	5593
24	18	205	40	1061	5520	24	18	253	40	1085	5556	24	18	410	40	1101	5594
24	18	206	40	1062	5521	24	18	254	40	1085	5557	24	18	500	40	1101	5595
24	18	210	40	1062	5522	24	18	255	40	1085	5558	24	18	501	40	1102	5596
24	18	211	40	1062	5523	24	18	256	40	1086	5559	24	18	502	40	1103	5597
24	18	212	40	1064	5524	24	18	257	40	1086	5560	24	18	503	40	1104	5598
24	18	213	40	1065	5525	24	18	258	40	1087	5561	24	18	504	40	1104	5599
24	18	214	40	1066	5526	24	18	259	40	1087	5562	24	18	600	40	1105	5600
24	18	215	40	1069	5527	24	18	260	40	1087	5563	24	18	601	40	1106	5601
24	18	216	40	1069	5528	24	18	261	40	1087	5564	24	18	602	40	1106	5602
24	18	217	40	1069	5529	24	18	300	40	1088	5565	24	18	603	40	1107	5603
24	18	218	40	1070	5530	24	18	301	40	1088	5566	24	18	604	40	1107	5604
24	18	219	40	1071	5531	24	18	302	40	1089	5567	24	18	605	40	1108	5605
24	18	220	40	1072	5532	24	18	303	40	1089	5568	24	18	606	40	1108	5606
24	18	221	40	1072	5533	24	18	304	40	1090	5569	24	18	607	40	1109	5607
24	18	222	40	1073	5534	24	18	305	40	1090	5570	24	18	608	40	1109	5608
24	18	223	40	1074	5535	24	18	310	40	1090	5571	24	18	609	40	1109	5609
						24	18	311	40	1090	5572	24	18	610	40	1109	5610
						24	18	312	40	1091	5573	24	18	611	40	1110	5611

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1919					1919					1919				
Date	Ch.	Sec.	Vol.	Pg. Herein	Date	Ch.	Sec.	Vol.	Pg. Herein	Date	Ch.	Sec.	Vol.	Pg. Herein
FEB.					FEB.					FEB.				
24 18	612	40	1110	5612	24 18	1317	40	1146	5060	28 79	—	40	1211	10227
24 18	613	40	1110	5613	24 18	1318	40	1148	5061	28 80	—	40	1211	1514
24 18	614	40	1111	5614	24 18	1318	40	1148	5063	28 81	—	40	1211	1952
24 18	615	40	1111	5615	24 18	1318	40	1148	5071	28 82	—	40	1212	10290a
24 18	616	40	1111	5616	24 18	1318	40	1148	5072					
24 18	617	40	1111	5277	24 18	1318	40	1148	5075					
24 18	617	40	1111	5278	24 18	1318	40	1148	5633w	MAR.				
24 18	618	40	1113	5617	24 18	1319	40	1148	5633x	1 86	1	40	1218	62
24 18	619	40	1113	5618	24 18	1320	40	1148	5634	1 86	1	40	1222	173
24 18	620	40	1113	5619	24 18	1400	40	1149	5634a	1 86	1	40	1223	188
24 18	621	40	1114	5620	24 18	1401	40	1150	5634a	1 86	1	40	1224	2797n
24 18	622	40	1114	5621	24 18	1402	40	1150	5634b	1 86	1	40	1227	10260
24 18	623	40	1114	5188	24 18	1403	40	1150	5634c	1 86	1	40	1227	9311
24 18	624	40	1114	5622	24 18	1404	40	1150	5634c	1 86	1	40	1230	310b
24 18	625	40	1114	5177	24 18	1405	40	1151	5634c	1 86	1	40	1231	279a
24 18	626	40	1115	5623	24 18	1406	40	1151	1733a	1 86	1	40	1233	1207n
24 18	627	40	1115	5331	24 18	1407	40	1151	8352	1 86	1	40	1234	5665n
24 18	628	40	1116	5624	24 18	1407	40	1151	9915	1 86	1	40	1237	237a
24 18	629	40	1116	5625	24 18	1408	40	1151	5634d	1 86	1	40	1238	6024n
24 18	630	40	1116	5626	24 18	1409	40	1152	5635	1 86	1	40	1239	6046
24 18	700	40	1116	5627	25 21	—	40	1153	3900	1 86	1	40	1239	1521n
24 18	701	40	1117	5339	25 23	1	40	1154	613a	1 86	1	40	1242	5982a
24 18	701	40	1117	5628	25 23	2	40	1154	613b	1 86	1	40	1244	483
24 18	702	40	1118	5629	25 29	1	40	1156	763	1 86	1	40	1245	483a
24 18	703	40	1118	5630	25 29	2	40	1156	883	1 86	1	40	1251	3831n
24 18	704	40	1118	5150	25 29	3	40	1157	883n	1 86	1	40	1251	3834
24 18	704	40	1118	5338	25 29	4	40	1157	901	1 86	1	40	1251	4075
24 18	800	40	1120	5631	25 29	5	40	1157	953a	1 86	1	40	1252	6569
24 18	801	40	1121	5632	25 29	6	40	1157	1026	1 86	1	40	1255	3776a
24 18	802	40	1121	5632a	25 36	—	40	1160	10291	1 86	1	40	1256	691
24 18	900	40	1122	5632b	25 37	—	40	1161	3935b	1 86	1	40	1260	6502
24 18	901	40	1123	5632c	25 38	—	40	1161	10375	1 86	1	40	1262	6174
24 18	902	40	1123	5632d	25 39	1	40	1163	10376	1 86	1	40	1262	6293
24 18	903	40	1123	5632e	25 39	1	40	1165	483n	1 86	1	40	1164	1136
24 18	904	40	1123	5632f	25 39	4	40	1173	2443a	1 86	1	40	1165	1136
24 18	905	40	1124	5632g	26 44	—	40	1175	4527a	1 86	3	40	1265	212f
24 18	906	40	1125	5632h	26 45	—	40	1178	4527b	1 86	4	40	1266	212g
24 18	907	40	1125	5632i	26 46	—	40	1179	10355a	1 86	5	40	1266	6181
24 18	1000	40	1126	5632j	26 47	—	40	1179	4095n	1 86	6	40	1267	188
24 18	1001	40	1126	5632k	26 48	—	40	1181	1043	1 86	8	40	1268	6040a
24 18	1002	40	1128	5632l	26 48	1	40	1182	1163a	1 86	9	40	1269	2810a
24 18	1003	40	1129	5632m	26 49	2	40	1182	1163b	1 86	10	40	1269	6300a
24 18	1004	40	1129	5632n	26 49	3	40	1182	1163c	1 86	11	40	1270	6308
24 18	1005	40	1129	5632o	26 49	4	40	1182	1163d	1 87	—	40	1270	6472n
24 18	1006	40	1130	5452	26 49	5	40	1182	1163e	1 88	—	40	1270	873
24 18	1007	40	1132	5457	26 49	6	40	1182	1163f	1 88	—	40	1270	4524
24 18	1008	40	1132	5632p	26 49	7	40	1182	1163g	2 93	—	40	1272	4869a
24 18	1009	40	1132	5632q	26 49	8	40	1182	1163h	2 94	1	40	1272	10378
24 18	1100	40	1133	5632r	26 49	9	40	1183	1163i	2 94	2	40	1273	10379
24 18	1101	40	1133	5632s	26 50	1	40	1183	762a	2 94	3	40	1273	10380
24 18	1102	40	1133	5632t	26 50	2	40	1183	762a	2 94	4	40	1273	10381
24 18	1103	40	1133	5632u	26 51	—	40	1183	1178	2 94	5	40	1274	10382
24 18	1104	40	1134	5632v	28 69	1	40	1190	455	2 95	1	40	1286	9484a
24 18	1105	40	1134	5632w	28 69	1	40	1192	6572	2 95	1	40	1286	9478
24 18	1106	40	1134	5632x	28 69	1	40	1192	6571	2 95	2	40	1287	9478
24 18	1107	40	1135	5632y	28 69	1	40	1193	6570	2 95	3	40	1287	9481
24 18	1107	40	1135	5633	28 69	1	40	1193	6589a	2 95	4	40	1287	9364a
24 18	1200	40	1138	5633a	28 69	1	40	1193	6612	2 95	6	40	1287	9463
24 18	1201	40	1138	5633b	28 69	1	40	1194	6790a	2 95	7	40	1290	10159
24 18	1202	40	1139	5633c	28 69	1	40	1194	6814	2 95	8	40	1290	9477
24 18	1203	40	1139	5633d	28 69	1	40	1195	6875n	2 95	9	40	1290	9530a
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24 18	1307	40	1143	5633o	28 69	5	40	1200	6819n	3 97	10	40	1295	3782
24 18	1308	40	1143	5633p	28 69	6	40	1201	6820a	3 97	11	40	1296	3783
24 18	1309	40	1143	5633q	28 69	7	40	1201	6824a	3 97	12	40	1296	3784
24 18	1310	40	1143	5633r	28 69	8	40	1201	6824b	3 97	13	40	1296	3785
24 18	1311	40	1144	5633s	28 69	9	40	1202	6824c	3 97	14	40	1297	3786
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24 18	1313	40	1145	5633u	28 70	1	40	1202	10377	3 97	16	40	1297	3788
24 18	1314	40	1145	5633v	28 70	2	40	1203	10377	3 97	17	40	1298	3789
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24 18	1316	40	1145	5124	28 71	—	40	1203	9579a	3 97	20	40	1298	3792
24 18	1316	40	1145	6082	23 71	—	40	1203	9579a	3 97	21	40	1299	3793
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3 97	23	40	1299	3795		30 4	1 41		4	3553		19 24	1 41	171		2903n	
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3 98	10	40	1304	8765j								19 24	1 41	225		735a	
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30 4	1 41		4	3553		30 4	1 41		4	3542		19 24	1 41	171		2903n	
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28 82	8	41	311	8351g	24 16	5	41	371	10274
28 82	9	41	311	8351h	24 16	6	41	372	10279
28 82	10	41	312	8351i	24 16	7	41	372	10294a
28 82	11	41	312	8351j	24 16	8	41	372	10285
28 82	12	41	312	8351k	24 16	9	41	372	10291a
28 82	13	41	312	8351l	24 16	10	41	372	10293
28 82	14	41	312	8351m	24 16	10a	41	373	10292
28 82	15	41	312	8351n	24 16	11	41	373	10294
28 85	16	41	313	8351o	24 16	12	41	374	10307
28 85	17	41	313	8351p	24 16	13	41	375	10310a
28 85	18	41	313	8351q	24 16	14	41	376	10310b
28 85	19	41	313	8351r	24 16	15	41	376	10310c
28 85	20	41	313	8351s	24 16	16	41	376	10310d
28 85	21	41	314	8351t	24 16	17	41	376	10312a
28 85	22	41	314	8351u	24 16	18	41	376	10312b
28 85	23	41	314	8351v	24 16	19	41	376	10312c
28 85	24	41	315	8351w	24 17	—	41	377	8112a
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28 85	7	41	320	8352u	29 57	—	41	400	846
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28 91	441	41	498	7920c	1 165	1	41	585	8605a	2 218	1-14	41	731	4529a
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28 91	501	41	499	7967u	1 165	4	41	586	8605d	2 219	3	41	735	8439g
28 91	502	41	499	7920ee	1 165	5	41	587	8605e	2 219	4	41	736	8439h
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					1 165	7	41	587	8605g	2 219	6	41	737	8439j
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					10 175	—	41	594	1901b	4 223	—	41	744	6071
					10 176	—	41	595	5762	4 223	—	41	746	7040a
					10 177	—	41	595	5762	4 223	—	41	746	7040b
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					18 190	2	41	602	1763a	4 227	1	41	759	1452
					18 190	3	41	602	2314b	4 227	2	41	759	1453
					18 190	4	41	602	1782a	4 227	3	41	759	1474
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					18 190	7	41	603	2242a	4 227	4	41	761	1782
					18 190	8	41	603	7812c	4 227	4	41	762	1454b
					18 190	9	41	603	1782c	4 227	5	41	762	1478
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					18 190	11	41	603	7870b	4 227	5	41	765	1480
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					18 190	13	41	604	1782d	4 227	7	41	765	1485
					18 190	14	41	604	1782e	4 227	8	41	765	1486
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					21 194	6	41	613	2702b	4 227	10	41	766	1506
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					22 195	1	41	614	2876a	4 227	10	41	785	1663
					22 195	2	41	614	2876b	4 227	11	41	768	1522
					22 195	3	41	615	2876c	4 227	12	41	768	1526
					22 195	4	41	616	2876d	4 227	13	41	768	1530a
					22 195	5	41	616	2876e	4 227	13	41	768	1531
					22 195	6	41	617	2876f	4 227	13	41	768	1538a
					22 195	7	41	617	2876g	4 227	14	41	769	259
					22 195	8	41	618	2876h	4 227	15	41	769	1553
					22 195	9	41	618	2876i	4 227	16	41	769	1458
					22 195	10	41	618	2876j	4 227	17	41	769	1467
					22 195	11	41	619	2876k	4 227	18	41	770	1455
					22 195	12	41	619	2876l	4 227	19	41	770	1464
					22 195	13	41	619	2876m	4 227	20	41	770	1461
					22 195	14	41	620	2876n	4 227	21	41	770	1472
					22 195	15	41	620	2876o	4 227	22	41	770	1470a
					22 195	16	41	620	2876p	4 227	23	41	771	1596
					22 195	17	41	620	2876q	4 227	24	41	771	1573
					25 196	—	41	620	9914	4 227	24	41	771	1597
					25 197	—	41	621	9579	4 227	24	41	771	1598
					26 204	—	41	625	3645b	4 227	24	41	771	1737
					26 206	—	41	626	7965	4 227	24	41	771	1743
					29 212	—	41	630	1125a	4 227	24	41	773	1574
					29 214	1	41	632	63a	4 227	24	41	774	1575
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					29 214	1	41	647	310a	4 227	27	41	775	1562
					29 214	1	41	650	310b	4 227	28	41	775	1782
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					29 214	1	41	677	6174	4 227	33	41	776	1545
					29 214	1	41	678	718a	4 227	34	41	777	1546
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					29 214	6	41	689	2821a	4 227	34	41	778	1550
					29 214	7	41	691	5960a	4 227	34	41	778	1551
					29 215	1	41	691	9324	4 227	34	41	778	1552

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4 227	34	41	778	1600
4 227	34	41	779	2610
4 227	35	41	780	1570
4 227	35	41	780	1894
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4 227	52	41	797	1952
4 227	52	41	797	1952a
4 227	52	41	799	1953

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4 227	52	41	799	1954
4 227	52	41	800	1955
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4 228	—	41	813	2291a
4 228	—	41	814	512a
4 228	—	41	816	513a
4 228	—	41	817	2251a
4 228	—	41	817	2623a
4 228	—	41	824	2464a
4 228	—	41	824	2359
4 228	—	41	825	7880a
4 228	—	41	825	2376
4 228	1	41	830	2409
4 228	2	41	834	2091b

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4 228	2	41	834	2464c
4 228	3	41	834	2051a
4 228	4	41	835	2051b
4 228	5	41	835	2051c
4 228	6	41	836	1783b
4 228	7	41	836	2092a
4 228	8	41	836	1620a
4 228	9	41	837	2464b
4 228	10	41	837	2202a
5 235	—	41	880	7821b
5 235	—	41	929	7870a
5 235	—	41	946	10169k
5 235	—	41	947	6181a
5 240	—	41	949	260c
5 240	—	41	953	1538c
5 240	—	41	954	1538b
5 240	—	41	956	237
5 240	—	41	956	1462a
5 240	—	41	957	1808a
5 240	—	41	960	1648a
5 240	—	41	962	1458a
5 240	—	41	966	8439c
5 240	—	41	966	8439d
5 240	—	41	966	2610a
5 240	—	41	966	1547a
5 240	—	41	969	234a
5 240	—	41	973	1613a
5 240	—	41	973	2577b
5 240	—	41	973	2592
5 240	—	41	975	1640a
5 240	—	41	975	1799a
5 240	—	41	976	1799b
5 241	—	41	977	2690a
5 241	—	41	977	10209
5 243	—	41	981	3700
5 245	1	41	982	8605i
5 245	2	41	982	8605j
5 245	3	41	982	8605c
5 248	1	41	987	756a
5 248	2	41	987	756b
5 248	3	41	987	756c
5 248	4	41	987	756d
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5 250	2	41	988	7516b
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5 250	3	41	989	7482
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5 250	4	41	990	7516c
5 250	5	41	990	7516d
5 250	6	41	991	7516e
5 250	7	41	991	7516f
5 250	8	41	992	7516g
5 250	9	41	992	7516h
5 250	10	41	992	7516i
5 250	11	41	993	7516j
5 250	12	41	993	7516jj
5 250	13	41	993	7516k
5 250	14	41	993	7516kk
5 250	15	41	993	7516l
5 250	16	41	994	7516
5 250	17	41	994	7516ll
5 250	18	41	994	7488
5 250	19	41	995	7516m
5 250	20	41	996	7493
5 250	20	41	996	7493a
5 250	21	41	997	7516n
5 250	22	41	997	7516o
5 250	23	41	997	7516p
5 250	24	41	998	7516pp
5 250	25	41	998	7516q
5 250	26	41	998	7516qq
5 250	27	41	999	7516r
5 250	28	41	999	7516rr
5 250	29	41	1000	7516s
5 250	30	41	1000	7516t
5 250	31	41	1006	7552
5 250	32	41	1006	7553
5 250	33	41	1007	7568
5 250	34	41	1007	7516u
5 250	35	41	1007	7516v
5 250	36	41	1007	7516w

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5 250	37	41	1008	7516x	5 268	—	41	1060	9944	FEB.				
5 250	38	41	1008	7481	10 285	1	41	1063	9531a	26 53	40	1184	10312d	
5 250	39	41	1008	7516y	10 285	2	41	1063	9531b	26 54	40	1184	865	
5 251	—	41	1008	3700b	10 285	3	41	1063	9531c	28 85	40	1213	4381n	
5 252	2	41	1010	9465a	10 285	4	41	1065	9531d					
5 252	5	41	1014	9530c	10 285	5	41	1067	9531e	JULY				
5 252	8	41	1015	9530d	10 285	6	41	1067	9531f	26 28	41	272	260b	
5 252	9	41	1015	9485	10 285	7	41	1067	9531g					
5 253	—	41	1017	2814	10 285	8	41	1068	9531h	SEPT.				
5 253	—	41	1021	10356a	10 285	9	41	1068	9531i	29 70	41	291	1799	
5 253	—	41	1028	2231	10 285	10	41	1068	9531j	29 72	41	291	2710a	
5 253	—	41	1031	6814a	10 285	11	41	1070	9531k					
5 253	—	41	1036	72a	10 285	12	41	1070	9531l	Nov.				
5 253	—	41	1037	478a	10 285	13	41	1071	9531m	13 106	41	354	3976n	
5 253	—	41	1037	6491a	10 285	14	41	1071	9531n					
5 254	—	41	1045	6523	10 285	15	41	1072	9531o	FEB.				
5 254	—	41	1046	6552	10 285	16	41	1072	9531p	14 76	41	434	3935a	
5 254	—	41	1046	6555	10 285	17	41	1072	9531q	MAR.				
5 254	—	41	1047	6569	10 285	18	41	1073	9531r	23 106	41	536	6520	
5 254	—	41	1048	6560a	10 285	19	41	1073	9531s	APR.				
5 254	—	41	1050	6875	10 285	20	41	1073	9531t	17 150	41	554	1515a	
5 254	—	41	1051	6913a	10 285	21	41	1074	9531u	MAY				
5 254	—	41	1051	6654	10 285	22	41	1074	9531v	26 207	41	627	10312d	
5 254	—	41	1052	6570	10 285	23	41	1075	9531w	26 208	41	627	9340	
5 254	—	41	1052	6909	10 285	24	41	1075	9531ww	JUNE				
5 254	—	41	1052	6874a	10 285	25	41	1076	9531x	2 220	41	738	5484	
5 254	—	41	1052	6593	10 285	26	41	1076	9531xx	5 269	41	1061	9617a	
5 254	—	41	1053	6584	10 285	27	41	1077	9531y					
5 254	—	41	1053	6569	10 285	28	41	1077	9531yy					
5 256	—	41	1054	7883a	10 285	29	41	1077	9531z					
5 261	—	41	1056	2123a	10 285	30	41	1077	9531zz					
5 263	—	41	1057	3807a	14 286	—	41	1077	1562					
5 264	2	41	1057	706a										

III. Judicial Code

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2	763	97	861	136	901
3	764	98	862	146	910
4	765	101	865	260	1026
5	766	108	873	269	1043
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IV. Criminal Code

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Carey Act	4220a	Minerals Leasing Act....4023a-4023w	
Child Labor Law	5633a-5633h	Navy Reorganization Acts 2051a-2464c	
Civil Service Retirement Act..2876a-	2876q	Reed Amendment	9915
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	7884-7920c, 8088a-8088q,	Soldiers' and Sailors' Civil Relief	
	10169a-10169i	Act	10317a
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Judicial Code	763-910, 1026, 1043		10356
Liberty Bond Acts.....	6130a-6143b	Volstead Prohibition Act..	8350a-8353k
		War Risk Insurance Act 10248a-10312d	
		Water Power Act.....	9531a-9531zz

CONSTITUTION OF UNITED STATES

AMENDMENTS

ARTICLE XVIII.

Section 1. After one year from the ratification of this article the manufacture, sale or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Sec. 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Sec. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

ARTICLE XIX.

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Sec. 2. Congress shall have power, by appropriate legislation, to enforce the provisions of this article.

SUPPLEMENT

TO

UNITED STATES STATUTES

TITLE II. THE CONGRESS.

CHAPTER 5.

OFFICERS AND EMPLOYEES OF CONGRESS.

§ 56a. Legislative drafting service.—(a) There is hereby created a Legislative Drafting Service under the direction of two draftsmen, one of whom shall be appointed by the President of the Senate, and one by the Speaker of the House of Representatives, without reference to political affiliations and solely on the ground of fitness to perform the duties of the office. Each draftsman shall receive a salary of \$5,000 a year, payable monthly. The draftsmen shall, subject to the approval of the President of the Senate and the Speaker of the House of Representatives, employ and fix the compensation of such assistant draftsmen, clerks, and other employees, and purchase such furniture, office equipment, books, stationery, and other supplies, as may be necessary for the proper performance of the duties of the service and as may be appropriated for by Congress.

(b) The Drafting Service shall aid in drafting public bills and resolutions or amendments thereto on the request of any committee of either House of Congress, but the Library Committee of the Senate and the Library Committee of the House of Representatives, respectively, may determine the preference, if any, to be given to such requests of the committees of either House, respectively. The draftsmen shall, from time to time, prescribe rules and regulations for the conduct of the work of the service for the committees of each House, subject to the approval of the Library Committee of each House, respectively.

(c) For the remainder of the current fiscal year there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$25,000, or so much thereof as may be necessary, for the purpose of defraying the expenses of the establishment and maintenance of the service, including the payment of salaries herein authorized. One-half of all appropriations for the service shall be disbursed by the Secretary of the Senate and one-half by the Clerk of the House of Representatives. (Act Feb. 24, 1919, c. 18, § 1303.)

§ 62. Janitors to committees of House.—Janitors under the foregoing [appropriations] shall be appointed by the chairmen, respectively, of said committees, and shall perform under the direction of the Doorkeeper all of the duties heretofore required of messengers detailed to said committees by the Doorkeeper, and shall be subject to removal by the Doorkeeper at any time after the termination of the Congress during which they were appointed. (Acts May 10, 1916, c. 117, § 1, 39 Stat. 71; March 3, 1917, c. 163, § 1, 39 Stat. 1075; March 1, 1919, c. 86, § 1.)

§ 65a. Duties of clerks to Senators.—Such clerks and assistant clerks shall be ex officio clerks and assistant clerks of any committee of which their Senator is chairman. (Act May 29, 1920, c. 214, § 1.)

§ 72a. Prices and terms for supplies.—Hereafter supplies for use of the Senate and the House of Representatives may be purchased in accordance with the schedule of contract articles and prices of the General Supply Committee authorized by section 4 of the Act approved June 17, 1910, concerning the purchase of supplies for the executive departments and other Government establishments in Washington: Provided, That paper, envelopes, and blank-books required by the stationery rooms of the Senate and House of Representatives for sale to Senators and Members for official use may be purchased from the Public Printer at actual cost thereof and payment therefor shall be made before delivery. (Act June 5, 1920. c. 253.)

TITLE III.

THE PRESIDENT.

CHAPTER 2.

OFFICE AND COMPENSATION OF THE PRESIDENT.

§ 170. Detail of executive employees to office of President.—Employees of the executive departments and other establishments of the executive branch of the Government may be detailed from time to time to the office of the President of the United States for such temporary assistance as may be necessary. (Acts Feb. 3, 1905, c. 297 § 1, 33 Stat. 642; March 1, 1919, c. 86, § 1.)

TITLE IV.

PROVISIONS APPLICABLE TO ALL THE EXECUTIVE DEPARTMENTS.

§ 188. Detail of employees for duty within or without District of Columbia.—Hereafter it shall be unlawful to detail civil officers, clerks, or other subordinate employees who are authorized or employed under or paid from appropriations made for the military or naval establishments, or any other branch of the public service outside of the District of Columbia, except those officers and employees whose details are now specifically provided by law, for duty in any bureau, office, or other division of any Executive Department in the District of Columbia, except temporary details for duty connected with their respective offices. In expending appropriations made in this Act persons in the classified service in the District of Columbia shall not be detailed for service outside of the District of Columbia except for or in connection with work pertaining directly to the service at the seat of government of the department or other Government establishment from which the detail is made: Provided, That nothing in this section shall be deemed to apply to the investigation of any matter or the preparation, prosecution, or defense of any suit by the Department of Justice. (Acts June 22, 1906, c. 3514, § 6, 34 Stat. 449; May 10, 1916, c. 117, § 5, 39 Stat. 120; March 3, 1917, c. 163, § 5, 39 Stat. 1121; March 1, 1919, c. 86, § 6.)

Note.—Act March 1, 1919, c. 86, § 1, provides that "no detail of clerks or other employees from the executive departments or other Government establishments in the District of Columbia, to the Civil Service Commission for the performance of duty in the District of Columbia, shall be made for or during the fiscal year 1920. The Civil Service Commission shall, however, have power in case of emergency to transfer or detail any of its employees herein provided for to or from its office force, field force, or rural carrier examining board."

§ 189. Extra compensation to clerks.

Note.—By Act March 1, 1919, c. 86, § 7, additional compensation for government employees is provided for, as set forth in § 2810a, herein.

§ 212a. Transfer of ammunition to other departments.—That the Secretary of War be, and he is hereby, authorized to turn over on request from other executive departments of the Government, in his discretion, from time to

time, without charge therefor, such ammunition, explosives, and other ammunition components as may prove to be or shall become surplus or unsuitable for the purposes of the War Department and as shall be suitable for use in the proper activities of other executive departments. (Acts July 11, 1919, c. 8, § 1, subchapter IV.)

§ 212b. Transfer of material or equipment to Government Printing Office.—This section shall not be construed to amend, alter, or repeal the Executive order of December 3, 1918, concerning the transfer of office material, supplies, and equipment in the District of Columbia falling into disuse because of the cessation of war activities: Provided further, That any officer of the Government having machinery, material, equipment or supplies for printing, binding, and blank book work, including lithography, photolithography, and other processes of reproduction, which are no longer required or authorized for his service, shall submit a detailed report of the same to the Public Printer, and the Public Printer is hereby authorized, with the approval of the Joint Committee on Printing, to requisition such articles of the character herein described as are serviceable in the Government Printing Office, and the same shall be promptly delivered to that office. (Acts July 19, 1919, c. 24, § 3.)

§ 212c. Transfer of war records.—That except as otherwise provided by law the President is authorized to transfer to the custody and care of such of the departments or independent establishments as he may determine the files and records of the agencies created for the period of the war upon the discontinuance of such activities. (Act July 19, 1919, c. 24, § 4.)

§ 212d. Transfer of motor vehicles.—The Secretary of War is authorized to transfer any unused and surplus motor-propelled vehicles and motor equipment of any kind, the payment for same to be made as provided herein, to any branch of the Government service having appropriations available for the purchase of said vehicles and equipment: Provided, That in case of the transfers herein authorized a reasonable price not to exceed actual cost, and if the same have been used, at a reasonable price based upon length of usage, shall be determined upon and an equivalent amount of each appropriation available for said purchase shall be covered into the Treasury as a miscellaneous receipt, and the appropriation in each case reduced accordingly: Provided further, That it shall be the duty of each official of the Government having such purchases in charge to procure the same from any such unused or surplus stock if possible: Provided further, That hereafter no transfer of motor-propelled vehicles and motor equipment, unless specifically authorized by law, shall be made free of charge to any branch of the Government service. (Act July 19, 1919, c. 24, § 5.)

§ 212e. Purchase or service by one department or bureau for another.—Whenever any Government bureau department procures, by purchase or manufacture, stores or materials of any kind, or performs any service for another bureau or department, the funds of the bureau or department for which the stores or materials are to be procured or the service performed may be placed subject to the requisitions of the bureau or department making the procurement or performing the service for direct expenditure: Provided, That funds so placed with the procuring bureau shall remain available for a period of two years for the purposes for which the allocation was made unless sooner expended. (Act May 21, 1920, c. 194, § 7.)

§ 212f. Appropriations for salaries available in case of disability, only where same is temporary.—The appropriations herein made for the officers, clerks, and persons employed in the public service shall not be available for the compensation of any persons incapacitated otherwise than temporarily for performing such service. (Act March 1, 1919, c. 86, § 3.)

§ 212g. Railroad transportation home furnished to employes discharged from service of government.—The heads of the several executive departments and other governmental establishments in the District of Columbia are hereby authorized and directed to furnish to such civilian employes, receiving compensation, exclusive of the additional 120, at the rate of not more than \$1,400 per annum or less than \$100 per annum, under their respective jurisdiction as have come to the District of Columbia since

April 6, 1917, whose services are no longer required and whose employment has been or may be terminated by the Government without delinquency or misconduct on their part, or who may resign from their positions, during the period from November 11, 1918, to March 31, 1919, inclusive, their actual railroad transportation, including sleeping-car accommodations from the District of Columbia to the place from which they accepted employment or to their legal residence, or to such other place not a greater distance, as the employee may elect. Such transportation must be applied for within ten days after the termination of service and shall be used within five days after issuance unless an extension of time on account of illness be granted by the proper authority. As to the employees whose services have been terminated during the period between November 11, 1918, and the date of the passage of this Act, inclusive, the time within which transportation shall be applied for shall be twenty days from the date of the passage of this Act. Any person who shall sell, exchange, or transfer such transportation for the use of another shall be punished by a fine of not more than \$100. The expenses authorized by this Act shall be paid from the following appropriations for the fiscal year 1920, which hereby are made available therefor immediately upon approval of this Act:

For the War Department, from "Temporary employees."

For the Navy Department, from "Temporary employees."

For all other executive departments and independent establishments, from the appropriations for the support of the services in which such persons are employed. Any employee who would be entitled to transportation, including sleeping-car accommodation under this Act and who has left the District of Columbia prior to the passage of this Act, but not before December 10, 1918, upon application and presentation within sixty days after the passage of this Act of proper proof shall have refunded the cost of actual railroad transportation, including sleeping-car accommodation, from the District of Columbia to the place from which employment was accepted, or to their legal residence, or to such other place not a greater distance to which the employee may have gone. The provisions made for the transportation of employees shall not apply to those who enter such service after January 7, 1919: Provided, That payment to any employee for leave of absence not earned in proportion to the term of employment shall be deducted from the refund authorized in this section and the provision made in this Act for the transportation of employees shall not be supplemented in any manner by the various services in which they are employed. (Act March 1, 1919, c. 86, § 4.)

TITLE VI.

THE DEPARTMENT OF WAR.

§ 233. **Assistant Secretary.**—Hereafter, in addition to such other duties as may be assigned him by the Secretary of War, the Assistant Secretary of War, under the direction of the Secretary of War, shall be charged with supervision of the procurement of all military supplies and other business of the War Department pertaining thereto and the assurance of adequate provision for the mobilization of matériel and industrial organizations essential to war-time needs. The Assistant Secretary of War shall receive a salary of \$10,000 per annum. There shall be detailed to the office of the Assistant Secretary of War from the branches engaged in procurement such number of officers and civilian employees as may be authorized by regulations approved by the Secretary of War. The offices of Second Assistant Secretary of War and Third Assistant Secretary of War are hereby abolished.

Under the direction of the Secretary of War chiefs of branches of the Army charged with the procurement of supplies for the Army shall report direct to the Assistant Secretary of War regarding all matters of procurement. He shall cause to be manufactured or produced at the Government arsenals or Government-owned factories of the United States all such supplies or articles needed by the War Department as said arsenals

or Government-owned factories are capable of manufacturing or producing upon an economical basis. And all appropriations for manufacture of matériel pertaining to approved projects, which are placed with arsenals or Government-owned factories or other ordnance establishments shall remain available for such purposes until the close of the next ensuing fiscal year. (Acts March 5, 1890, c. 26, 26 Stat. 17; April 6, 1918, c. 46, 40 Stat. 515; June 3, 1916, c. 134, § 5a, as added by Act June 4, 1920, c. 227, § 5.)

• **§ 234a. Employees in office of Chief of Engineers.**—The services of skilled draftsmen, civil engineers, and such other services as the Secretary of War may deem necessary may be employed only in the Office of the Chief of Engineers to carry into effect the various appropriations for "Engineer equipment of troops," "Engineer operations in the field," and other military appropriations to be paid from such appropriations: Provided further, That the expenditures on this account for the fiscal year 1921 shall not exceed \$150,000. The Secretary of War shall each year, in the annual estimates, report to Congress the number of persons who are employed, their duties, and amount paid to each. (Act June 5, 1920, c. 240.)

§ 237. Detail of employees for other duties.—It shall not hereafter be lawful to detail clerks or other civilian employees authorized for the Office of the General Staff for duty, temporary or otherwise, in any office or bureau of the War Department at Washington, District of Columbia, or to detail clerks or other employees from the War Department for service in the Office of the General Staff.

No clerk, messenger, or laborer at headquarters of tactical divisions, military departments, brigades, service schools, and office of the Chief of Staff shall be assigned to duty with any bureau in the War Department. (Acts June 22, 1906, c. 3514, § 1, 34 Stat. 418; Aug. 29, 1916, c. 418, § 1, Stat. 526; July 9, 1918, c. 143, 40 Stat. 845; July 11, 1919, c. 8, § 1; June 5, 1920, c. 240.)

§ 237a. Temporary employees.—For the temporary employment of such additional force of clerks and other employees as in the judgment of the Secretary of War may be proper and necessary to the prompt, efficient, and accurate dispatch of official business in the War Department and its bureaus, to be allotted by the Secretary of War to such bureaus and offices as the exigencies of the existing situation may demand, \$4,000,000: Provided, That the Secretary of War shall submit to Congress on the first day of its next regular session a statement showing by bureaus or offices the number and designation of the persons employed hereunder and the annual rate of compensation paid to each: Provided further, That no person shall be employed hereunder at a rate of compensation in excess of \$5,000 per annum, not more than five persons shall be employed hereunder at a rate of compensation in excess of \$2,400 per annum each, and not more than twenty-five persons shall be employed at a rate of compensation in excess of \$1,800 per annum each: Provided further, That detailed estimates shall be submitted by the War Department in the annual Book of Estimates for the fiscal year 1921 for necessary services of the character provided for in this paragraph. (Act March 1, 1919, c. 86, § 1.)

§ 251. Damages to private property by military operations.

Note.—Act July 11, 1919, c. 8, § 1, provides "for payment of claims for damages to and loss of private property incident to the training, practice, operation, or maintenance of the Army that have accrued, or may hereafter accrue, from time to time, to be immediately available and to remain available until expended: Provided, That settlement of such claims shall be made by the Auditor for the War Department, upon the approval and recommendation of the Secretary of War, where the amount of damages has been ascertained by the War Department, and payment thereof will be accepted by the owners of the property in full satisfaction of such damages, \$40,000."

§ 259. Employees of Bureau of Insular Affairs.—The officers of the Bureau of Insular Affairs shall be one Chief of the Bureau with the rank of brigadier general, and two officers below the grade of brigadier general: Provided, That during the tenure of office of the present Chief of the Bureau of Insular Affairs he shall have the rank of major general. (Acts June 25, 1906, c. 3528, 34 Stat. 456; June 3, 1916, c. 134, § 14, 39 Stat. 176; June 4, 1920, c. 227, § 14.)

Note.—The act first cited provides that the Chief of the Bureau shall be appointed by the President for the term of four years, with the advice and consent of the Senate.

§ 260a. Transfer of explosives to Interior Department.—The Secretary of War is authorized to transfer, without charge, to the Secretary of the Interior for use of the Interior Department, explosives and explosive material for which the War Department has no further use. (Act July 19, 1919, c. 24, § 1.)

§ 260b. Loan of tents to army organizations.—Hereafter no loan of tents shall be made except to the Grand Army of the Republic, the United Confederate Veterans, the United Spanish War Veterans, and to recognized organizations of veterans of the late World War by whatever name they may be known. (Res. No. 6, July 26, 1919, c. 28.)

§ 260c. Sale of war materials to States or foreign governments.—The Secretary of War be, and he is hereby, authorized, in his discretion, to sell to any State or foreign Government with which the United States is at peace at the time of the passage of this Act, upon such terms as he may deem expedient, any matériel, supplies, or equipment pertaining to the Military Establishment, except foodstuffs, as, or may be hereafter be found to be surplus, which are not needed for military purposes and for which there is no adequate domestic market. (Act June 5, 1920, c. 240.)

§ 260d. Draftsmen and other special services for department.—The services of skilled draftsmen and such other services as the Secretary of War may deem necessary may be employed only in the Signal Office to carry into effect the various appropriations for fortifications and other works of defense, and for the Signal Service of the Army, to be paid from such appropriations, in addition to the foregoing employees appropriated for in the Signal Office: Provided, That the entire expenditures for this purpose for the fiscal year 1921 shall not exceed \$53,280, and the Secretary of War shall each year in the annual estimates report to Congress the number of persons so employed, their duties, and the amount paid to each.

The services of skilled draftsmen and such other services as the Secretary of War may deem necessary may be employed only in the office of the Chief of Ordnance to carry into effect the various appropriations for the armament of fortifications and for the arming and equipping of the National Guard, to be paid from such appropriations, in addition to the amount specifically appropriated for draftsmen in the Army Ordnance Bureau: Provided, That the entire expenditures for this purpose for the fiscal year 1921 shall not exceed \$400,000, and the Secretary of War shall each year in the annual estimates report to Congress the number of persons so employed, their duties, and the amount paid to each.

The services of skilled draftsmen, civil engineers, and such other services as the Secretary of War may deem necessary, may be employed only in the office of the Chief of Engineers, to carry into effect the various appropriations for rivers and harbors, fortifications, and surveys and preparation for and the consideration of river and harbor estimates and bills, to be paid from such appropriations: Provided, That the expenditures on this account for the fiscal year 1921 shall not exceed \$50,400; the Secretary of War shall each year, in the annual estimates, report to Congress the number of persons so employed, their duties, and the amount paid to each. (Act May 29, 1920, c. 214, § 1.)

See § 237a.

TITLE VII.

THE DEPARTMENT OF THE TREASURY.

CHAPTER 1.

THE DEPARTMENT.

§ 279. Bureau of Engraving and Printing.

Note.—Act May 29, 1920, c. 214, § 1, provides that "no other fund appropriated by this or any other Act shall be used for services in the Bureau of Engraving and Printing, of the character specified in this paragraph, except in cases of emergency arising after the passage of this Act, and then only on

the written approval of the Secretary of the Treasury, and in every such case of emergency a detailed statement of the expenditures on account thereof shall be reported to Congress at the beginning of each regular session."

§ 279a. Funds for specific services in bureau not to be used except in emergency.—No other fund appropriated by this or any other Act shall be used for services, in the Bureau of Engraving and Printing, of the character specified in this paragraph, except in cases of emergency arising after the passage of this Act, and then only on the written approval of the Secretary of the Treasury, and in every such case of emergency a detailed statement of the expenditures on account thereof shall be reported to Congress at the beginning of each regular session. (Act March 1, 1919, c. 86, §1.)

§ 286. Enforcement of laws relating to department.—The Secretary of the Treasury is authorized to use for, and in connection with, the enforcement of the laws relating to the Treasury Department and the several branches of the public service under its control, not exceeding at any one time four persons paid from the appropriations for the collection of customs, four persons paid from the appropriation for salaries and expenses of internal-revenue agents or from the appropriation for the foregoing purpose, and four persons paid from the appropriation for suppressing counterfeiting and other crimes, but not exceeding six persons so detailed shall be employed at any one time hereunder: Provided, That nothing herein contained shall be construed to deprive the Secretary of the Treasury from making any detail now otherwise authorized by existing law. (Acts July 1, 1916, c. 209, § 1, 39 Stat. 276; July 1, 1918, c. 113, § 1, 40 Stat.)

CHAPTER 3.

THE COMPTROLLER.

§ 310a. Clerk for countersigning warrants.—The Comptroller of the Treasury is authorized to designate such person or persons in his office as may be required from time to time to countersign in his name such classes of warrants as he may direct. (Act May 29, 1920, c. 214, § 1.)

§ 310b. Chief of examining division.—The comptroller may designate a national-bank examiner to act as chief of the examining division in his office. (Acts March 1, 1919, c. 86, § 1; May 29, 1920, c. 214, § 1.)

CHAPTER 4.

THE AUDITORS.

§ 320. Examination of accounts by Auditors.

Note.—Act Feb. 25, 1919, c. 39, § 1, provides "The available balance of the appropriation of \$700,000 for the audit of accounts abroad, contained in the legislative, executive, and judicial appropriation Act for the fiscal year 1919, may be expended either abroad or in the District of Columbia for the purposes named in the Act, except that no per diem in lieu of subsistence shall be allowed in the District of Columbia."

TITLE VIII.

THE DEPARTMENT OF JUSTICE.

§ 418. Counsel to aid district attorneys.

Note.—Act July 19, 1919, c. 24, § 1, provides "for assistants to the Attorney General and to United States district attorneys employed by the Attorney General to aid in special cases, and including not to exceed \$30,000 for clerical help for such assistants, and for payment of foreign counsel employed by the Attorney General in special cases (such counsel shall not be required to take oath of office in accordance with section 366, Revised Statutes of the United States), in all, \$300,000, to be available for expenditure in the District of Columbia."

§ 421. Special counsel.

Note.—Act April 24, 1920, c. 161, § 1, provides "for compensation of a special assistant to the Attorney General to assist in the defense of cases against the United States arising out of the transportation of the mails, and in other cases and matters affecting the postal revenues, \$6,000."

TITLE IX.

THE POST OFFICE DEPARTMENT.

§ 448a. Readjustment of salaries; assignment of employees to duties.—In making readjustments hereunder, the salary of any clerk in any class may be fixed by the Postmaster General at \$100 below the salary fixed by law for such class and the unused portion of such salary shall be used to increase the salary of any clerk in any class entitled thereto by not less than \$100 above the salary fixed by law for such class. The Postmaster General shall assign to the several bureaus, offices, and divisions of the Post Office Department such number of the employees herein authorized as may be necessary to perform the work required therein; and he shall submit a statement showing such assignments and the number employed at the various salaries in the annual Book of Estimates following the estimates for salaries in the Post Office Department. (Act May 29, 1920, c. 214, § 1.)

§ 451. Purchasing agent for Department.

Note.—Act Feb. 28, 1919, c. 69, § 4, provides: "The Postmaster General and other responsible officials in expending appropriations contained in this Act, so far as possible shall purchase material, supplies, and equipment, when needed and funds are available, from the various services of the Government of the United States possessing material, supplies, and equipment no longer required because of the cessation of war activities. It shall be the duty of the Postmaster General and other officials, before purchasing any of the articles described herein, to ascertain from the other services of the Government whether they have articles of the character described that are serviceable. And articles purchased from other services of the Government, if the same have not been used, shall be paid for at a reasonable price not to exceed actual cost, and if the same have been used, at a reasonable price based upon length of usage. The various services of the Government are authorized to sell such articles to the Postal Service under the condition specified and the proceeds of such sales shall be covered into the Treasury as a miscellaneous receipt."

§ 455. Rewards for detection of crime.—For payment of rewards for the detection, arrest, and conviction of post-office burglars, robbers, and highway mail robbers: Provided, That rewards may be paid, in the discretion of the Postmaster General, when an offender of the class mentioned was killed in the act of committing the crime or in resisting lawful arrest: And provided further, That of the amount herein appropriated not to exceed \$5,000 may be expended, in the discretion of the Postmaster General, for the purpose of securing information concerning violations of the postal laws and for services and information looking toward the apprehension of criminals, \$25,000. (Acts July 28, 1916, c. 261, § 1, 39 Stat. 413; March 3, 1917, c. 162, § 1, 39 Stat. 1059; July 2, 1918, c. 117, § 1, 40 Stat. 742; Feb. 28, 1919, c. 69, § 1; April 24, 1920, c. 161, § 1.)

§ 478a. Report as to cost of mail under frank.—Hereafter the Postmaster General shall in his annual report submit a detailed statement of the cost to the postal establishment of the matter mailed under frank by each department and independent establishment of the Government and the revenue which would be derived therefrom if carried at the ordinary rates of postage. (Act June 5, 1920, c. 253.)

TITLE X.

THE DEPARTMENT OF THE NAVY.

§ 483. Clerks and employees.

Note 1.—Act Feb. 25, 1919, c. 39, § 1, provides: "The limitation specified in the legislative, executive, and judicial appropriation Act for the fiscal year 1919 upon the amount which may be expended for the services of skilled draftsmen and other technical services in the Bureau of Yards and Docks is increased by the sum of \$150,000."

"The limitation specified in the legislative, executive, and judicial appropriation Act for the fiscal year 1919 on expenditures for clerks, draftsmen, and other technical services from the appropriation 'Ordnance and ordnance stores' is increased by the sum of \$20,000."

"The limitation specified in the naval appropriation Act for the fiscal year 1918 on expenditures for pay of clerical, inspection, storemen, store laborers, and messenger service from the appropriation 'Maintenance, Bureau of Supplies and Accounts,' is increased further by \$15,000."

"The limitation specified in the naval appropriation Act for the fiscal year 1919 on expenditures for pay of clerical, inspection, storemen, store laborers, and messenger service from the appropriation 'Maintenance, Bureau of Supplies and Accounts,' is increased by the sum of \$300,000."

Note 2.—Act July 11, 1919, c. 9, § 1, provides that "all former Government employees who have entered the military or naval service of the United States in the war with the German Government shall be reinstated on application to their former positions if they have received an honorable discharge and are qualified to perform the duties of the position." (Acts July 11, 1919, c. 9, § 1.)

§ 483a. Draftsmen and other special services in bureaus.—The services of draftsmen and such other technical services as the Secretary of the Navy may deem necessary may be employed only in the Bureau of Steam Engineering and at rates of compensation not exceeding those paid hereunder prior to January 1, 1918, to carry into effect the various appropriations for "Increase of the Navy" and "Engineering," to be paid from the appropriation "Engineering": Provided, That the expenditures on this account for the fiscal year 1921 shall not exceed \$184,000. A statement of the persons employed hereunder, their duties, and the compensation paid to each shall be made to Congress each year in the annual estimates.

The services of draftsmen and such other technical services as the Secretary of the Navy may deem necessary may be employed only in the Bureau of Construction and Repair and at rates of compensation not exceeding those paid hereunder prior to January 1, 1918, to carry into effect the various appropriations for "Increase of the Navy," and "Construction and Repair," to be paid from the appropriation "Construction and Repair": Provided, That the expenditures on this account for the fiscal year 1921 shall not exceed \$275,000. A statement of the persons employed hereunder, their duties, and the compensation paid to each shall be made to Congress each year in the annual estimates.

The services of draftsmen and such other technical services as the Secretary of the Navy may deem necessary may be employed only in the Bureau of Ordnance, and at rates of compensation not exceeding those paid hereunder prior to January 1, 1918, to carry into effect the various appropriations for "Increase of the Navy," and "Ordnance and ordnance stores," to be paid from the appropriation "Ordnance and ordnance stores": Provided, That the expenditures on this account for the fiscal year 1921 shall not exceed \$70,000. A statement of the persons employed hereunder, their duties and the compensation paid to each, shall be made to Congress each year in the annual estimates.

The services of skilled draftsmen and such other technical services as the Secretary of the Navy may deem necessary may be employed only in the Bureau of Yards and Docks to carry into effect the various appropriations and allotments thereunder and be paid from such appropriations and allotments: Provided, That the expenditures on this account for the fiscal year 1921 shall not exceed \$200,000. A statement of the persons employed hereunder, their duties, and the compensation paid to each shall be made to Congress each year in the annual estimates. (Acts March 1, 1919, c. 86, § 1; May 29, 1920, c. 214, § 1.)

§ 512a. Claims for damages from aircraft.—The Secretary of the Navy is hereby authorized to consider, ascertain, adjust, determine, and pay out of this appropriation the amounts due on claims for damages which have occurred or may occur to private property growing out of the operations of naval aircraft, where such claim does not exceed the sum of \$500: Provided further, That all claims adjusted under this authority during any fiscal year shall be reported in detail to the Congress by the Secretary of the Navy. (Acts July 11, 1919, c. 9, § 1; June 4, 1920, c. 228.)

§ 512b. Claims for damage to property from general naval operations.—The Secretary of the Navy is authorized to consider, ascertain, adjust, determine, and pay the amounts due in all claims for damages (other than

such as are occasioned by vessels of the Navy), to and loss of privately owned property, occurring subsequent to April 6, 1917, where the amount of the claim does not exceed \$500, for which damage or loss men in the naval service or Marine Corps are found to be responsible, all payments in settlement of said claims to be made out of the appropriation "Pay, miscellaneous": Provided further, That all claims adjusted under this authority during any fiscal year shall be reported in detail to the Congress by the Secretary of the Navy. (Acts July 11, 1919, c. 9, § 1.)

§ 513a. **Details to Hydrographic Office.**—The Secretary of the Navy is authorized to detail such naval officers as may be necessary to the Hydrographic Office. (Acts July 11, 1919, c. 9, § 1; June 4, 1920, c. 228.)

§ 514a. **Sale of publications of Hydrographic Office.**—All sums received from the sale of maps, charts, and other publications issued by the Hydrographic Office after June 30, 1921, shall be covered into the Treasury of the United States as miscellaneous receipts. (Act May 29, 1920, c. 214, § 1.)

TITLE XI.

THE DEPARTMENT OF THE INTERIOR.

CHAPTER 3.

THE GENERAL LAND OFFICE.

§ 540. **Hearings by order of Commissioner.**—This statute is repeated in Act July 11, 1919, c. 24, § 1.)

CHAPTER 6.

THE PATENT OFFICE.

§ 585. Price of specifications and drawings.

Note.—Act Nov. 4, 1919, c. 93, § 1, provides "for producing copies of weekly issue of patents, designs, and trade-marks; production of copies of drawings and specifications of exhausted patents and other papers; and for expense of transporting publications of patents issued by the Patent Office to foreign governments, \$15,000: Provided, That hereafter 10 cents per copy shall be charged for uncertified printed copies of specifications and drawings of patents."

See also § 8986.

CHAPTER 10.

THE BUREAU OF MINES.

§ 607. Director and employees.

Note.—Act July 19, 1919, c. 24, § 1, provides that "persons employed during the fiscal year 1920 in field work, outside of the District of Columbia, under the Bureau of Mines, may be detailed temporarily for service in the District of Columbia, for purposes of preparing results of their field work: all persons so detailed shall be paid in addition to their regular compensation only their actual traveling expenses or per diem in lieu of subsistence in going to and returning therefrom: Provided, That nothing herein shall prevent the payment to employees of the Bureau of Mines their necessary expenses or per diem, in lieu of subsistence while on temporary detail in the District of Columbia, for purposes only of consultation or investigations on behalf of the United States. All details made hereunder, and the purposes of each, during the preceding fiscal year, shall be reported in the annual estimates of appropriations to Congress at the beginning of each regular session thereof."

§ 613a. **Investigations of lignite coals and peat.**—The Secretary of the Interior is hereby authorized and directed to make experiments and investigations, through the Bureau of Mines, of lignite coals and peat, to determine the commercial and economic practicability of their utilization in producing fuel oil, gasoline substitutes, ammonia, tar, solid fuels, gas for power and other purposes; and there is hereby appropriated, out of the funds in the Treasury not otherwise appropriated, the sum of \$100,000,

or so much thereof as may be needed, to conduct such experiments and investigations, including personal services in the District of Columbia and elsewhere, and including supplies, equipment, expenses of traveling and subsistence, and for every other expense incident to this work. (Act Feb. 25, 1919, c. 22, § 1.)

§ 613b. Disposition of such plant and property.—The Secretary of the Interior is authorized and directed to sell or otherwise dispose of any property, plant, or machinery purchased or acquired under the provisions of this Act, as soon as the experiments and investigations hereby authorized have been concluded, and report the results of such experiments and investigations to Congress. (Act Feb. 25, 1919, c. 22, § 2.)

TITLE XII.

THE DEPARTMENT OF AGRICULTURE.

§ 628a. Employees in Virgin Islands.—Hereafter employees of the Department of Agriculture assigned to permanent duty in the Virgin Islands shall be entitled to the same privileges as to leave of absence as are conferred upon employees assigned to Alaska, Hawaii, Porto Rico, and Guam by the Act of June 30, 1914 (Thirty-eighth Statutes at Large, page 441), and if any employee of the agricultural experiment stations of the United States in Alaska, Hawaii, Porto Rico, Guam, or the Virgin Islands shall elect to postpone the taking of any or all of the annual leave to which he may be entitled under the said Act of June 30, 1914, he may, in the discretion of the Secretary of Agriculture, subject to the interests of the public service, be allowed to take at one time unused annual leave which may have accumulated within not to exceed four years, and be paid at the rate prevailing during the year such leave of absence has accumulated. (Acts July 24, 1919, c. 26, § 1.)

§ 639. Purchase and distribution of seeds and plants.—The Secretary of Agriculture, after due advertisement and on competitive bids, is authorized to award the contract for the supplying of printed packets and envelopes and the packeting, assembling, and mailing of the seeds, bulbs, shrubs, vines, cuttings, and plants, or any part thereof, for a period of not more than five years nor less than one year, if by such action he can best protect the interests of the United States. An equal proportion of five-sixths of all seeds, bulbs, shrubs, vines, cuttings, and plants, shall upon their request, after due notification by the Secretary of Agriculture, that the allotment to their respective districts is ready for distribution, be supplied to Senators, Representatives, and Delegates in Congress for distribution among their constituents, or mailed by the department upon the receipt of their addressed franks, in packages of such weight as the Secretary of Agriculture and the Postmaster General may jointly determine: Provided, however, That upon each envelope or wrapper containing packages of seeds the contents thereof shall be plainly indicated, and the Secretary shall not distribute to any Senator, Representative, or Delegate seeds entirely unfit for the climate and locality he represents, but shall distribute the same so that each Member may have seeds of equal value, as near as may be, and the best adapted to the locality he represents: Provided also, That the seeds allotted to Senators and Representatives for distribution in the districts embraced within the twenty-fifth and thirty-fourth parallels of latitude shall be ready for delivery not later than the 10th day of January: Provided also, That any portion of the allotments to Senators, Representatives, and Delegates in Congress remaining uncalled for on the 1st day of April shall be distributed by the Secretary of Agriculture, giving preference to those persons whose names and addresses have been furnished by Senators and Representatives in Congress and who have not before during the same season been supplied by the departments: And provided also, That the Secretary shall report, as provided in this Act, the place, quantity, and price of seeds purchased, and the

date of purchase; but nothing in this paragraph shall be construed to prevent the Secretary of Agriculture from sending seeds to those who apply for the same. And the amount herein appropriated shall not be diverted or used for any other purpose but for the purchase, testing, propagation, and distribution of valuable seeds, bulbs, mulberry and other rare and valuable trees, shrubs, vines, cuttings, and plants. (R. S. § 527; Acts June 25, 1864, c. 147, § 1, 13 Stat. 145, 155; March 2, 1865, c. 73, § 1, 13 Stat. 445, 455; July 23, 1866, c. 208, § 1, 14 Stat. 101, 201; March 2, 1867, c. 166, § 1, 14 Stat. 440, 452; April 25, 1896, c. 140, § 1, 29 Stat. 106; Aug. 11, 1916, c. 313, 39 Stat. 455; March 4, 1917, c. 179, 39 Stat. 1144; July 24, 1919, c. 26, § 1.)

§ 643a. Cotton and cotton seed from Mexico.—To prevent the movement of cotton and cotton seed from Mexico into the United States, including the regulation of the entry into the United States of railway cars and other vehicles, and freight, express, baggage, or other materials from Mexico, and the inspection, cleaning, and disinfection thereof, \$148,560; any moneys received in payment of charges fixed by the Secretary of Agriculture on account of such cleaning and disinfection at plants constructed therefor out of any appropriation made on account of the pink bollworm of cotton to be covered into the Treasury as miscellaneous receipts. (Act July 24, 1919, c. 26, § 1.)

§ 647. Rental or sale of films.—The Secretary of Agriculture is authorized, under such rules and regulations and subject to such conditions as he may prescribe, to loan, rent, or sell copies of films: Provided, That in the sale or rental of films educational institutions or associations for agricultural education not organized for profit shall have preference; all moneys received from such rentals or sales to be covered into the Treasury of the United States as miscellaneous receipts. (Acts March 4, 1917, c. 179, 39 Stat. 1157; July 24, 1919, c. 26, § 1.)

§ 667a. Overtime of employees.—Hereafter, the Secretary of Agriculture is authorized, in his discretion, to pay employees of the Bureau of Animal Industry employed in establishments subject to the provisions of the Meat Inspection Act of June 30, 1906, for all overtime work performed at such establishments, at such rates as he may determine, and to accept from such establishments wherein such overtime work is performed reimbursements for any sums paid out by him for such overtime work. (Act July 24, 1919, c. 26, § 1.)

§ 667aa. Investigations of fruits and vegetables at markets.—For enabling the Secretary of Agriculture to investigate and certify to shippers and other interested parties the quality and conditions of fruits, vegetables, poultry, butter, hay, and other perishable farm products, when received in interstate commerce at such important central markets as the Secretary of Agriculture may from time to time designate, under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered: Provided, That certificates issued by the authorized agents of the department shall be received in all ports of the United States as prima facie evidence of the truth of the statements therein contained, \$150,000. (Acts July 24, 1919, c. 26, § 1.)

§ 667b. Motor vehicles for field work.—Not to exceed \$75,000 of the lump-sum appropriations herein made for the Department of Agriculture shall be available for the purchase, maintenance, repair, and operation of motor-propelled and horse-drawn passenger-carrying vehicles necessary in the conduct of the field work of the Department of Agriculture outside the District of Columbia: Provided, That not to exceed \$15,000 of this amount shall be expended for the purchase of such vehicles, and that such vehicles shall be used only for official service outside the District of Columbia, but this shall not prevent the continued use for official service of motor trucks in the District of Columbia: Provided further, That the Secretary of Agriculture shall, on the first day of each regular session of Congress, make a report to Congress showing the amount expended under the provisions of this paragraph during the preceding fiscal year. (Acts July 24, 1919, c. 26, § 1.)

§ 667c. Propagation of bison.—Hereafter the Secretary of Agriculture may, in his discretion and under such conditions as he may prescribe, supply to any municipality or public institution not more than one American bison from any surplus which may exist in any herd under the control of the Department of Agriculture; and, in order to aid in the propagation of the species, animals may be loaned to or exchanged with other owners of American bison. (Acts July 24, 1919, c. 26, § 1.)

§ 667d. Coöperative work of department.—Hereafter in carrying on the activities of the Department of Agriculture involving coöperation with State, county and municipal agencies, associations of farmers, individual farmers, universities, colleges, boards of trade, chambers of commerce, or other local associations of business men, business organizations, and individuals within the State, Territory, district or insular possession in which such activities are to be carried on, moneys contributed from such outside sources, except in the case of the authorized activities of the Forest Service, shall be paid only through the Secretary of Agriculture or through State, county or municipal agencies, or local farm bureaus or like organizations, coöperating for the purpose with the Secretary of Agriculture.

The officials and the employees of the Department of Agriculture engaged in the activities described in the preceding paragraph and paid in whole or in part out of funds contributed as provided therein, and the persons, corporations, or associations making contributions as therein provided, shall not be subject to the proviso contained in the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1918, and for other purposes, approved March 3, 1917, in Thirty-ninth Statutes at Large, at page 1106; nor shall any official or employee engaged in the coöperative activities of the Forest Service, or the persons, corporations, or associations contributing to such activities be subject to the said proviso. (Acts July 24, 1919, c. 26, § 1.)

TITLE XIII.

THE DEPARTMENT OF COMMERCE.

CHAPTER 2.

THE BUREAU OF FOREIGN AND DOMESTIC COMMERCE.

§ 683. Annual report of commerce and navigation.

Note.—By Act Jan. 25, 1919, c. 10, the first paragraph of this section was amended by the substitution of the word "calendar" for the word "fiscal."

§ 691. Statistics of manufacture.

Note.—By Act March 1, 1919, c. 86, § 1, it is provided that "all moneys hereafter received by the Bureau of Foreign and Domestic Commerce in payment of photographic and other mechanical reproduction of special statistical compilations from its records shall be covered into the Treasury as a miscellaneous receipt."

CHAPTER 5.

THE BUREAU OF LIGHT-HOUSES.

§ 706a. Salary of Superintendent of Construction.—Hereafter the salary of the Superintendent of Naval Construction in the Bureau of Lighthouses shall be \$4,000 per annum. (Act June 5, 1920, c. 264, § 2.)

CHAPTER 6.

THE CENSUS OFFICE.

§ 714. Additional officers during decennial period.—During the decennial census period, and no longer, there may be employed in the Census Office, in addition to the force provided for by the legislative, executive, and judicial

appropriation Act for the fiscal year immediately preceding the decennial census period, an assistant director, who shall be an experienced practical statistician; a chief statistician, who shall be a person of known and tried experience in statistical work; a disbursing clerk; an appointment clerk; a private secretary to the director; four stenographers; eight expert chiefs of division; and ten statistical experts. The assistant director shall be appointed by the President, by and with the advice and consent of the Senate. The chief statistician, the disbursing clerk, the appointment clerk, the chiefs of divisions, and the private secretary to the director shall be appointed without examination by the Secretary of Commerce upon the recommendation of the Director of the Census. The statistical experts and the stenographers shall be appointed in conformity with the civil service Act and rules: Provided, That whenever practicable women and honorably discharged soldiers and sailors shall be employed in the positions herein provided for. (Acts July 2, 1909, c. 2, § 3, 36 Stat. 2; March 3, 1919, c. 97, § 3.)

§ 715. Duties of assistant director and appointment clerk; bond of disbursing clerk.—The assistant director shall perform such duties as may be prescribed by the Director of the Census. In the absence of the director, the assistant director shall serve as director, and in the absence of the director and assistant director, the chief clerk shall serve as director.

The appointment clerk shall perform the duties assigned him by the Director of the Census. The disbursing clerk of the Census Office shall, at the beginning of the decennial census period, give bond to the Secretary of the Treasury in the sum of \$100,000, surety to be approved by the Solicitor of the treasury, which bond shall be conditioned that the said officer shall render, quarter yearly, a true and faithful account to the proper accounting officers of the Treasury of all moneys and properties which shall be received by him by virtue of his office during the said decennial census period. Such bond shall be filed in the office of the Secretary of the Treasury, to be by him put in suit upon any breach of the conditions thereof. (Acts July 2, 1909, c. 2, § 4, 36 Stat. 2; March 3, 1919, c. 97, § 4.)

§ 716. Compensation of officers during decennial period.—During the decennial census period the annual compensation of the officials of the Census Office shall be as follows: The Director of the Census, \$7,500; the assistant director, \$5,000; the chief clerk and three chief statisticians for the divisions of population, manufactures, and agriculture, respectively, \$4,000 each; three other chief statisticians for the divisions of vital statistics and statistics of cities, and the chief statistician provided for in section three of this Act, \$3,600 each; the geographer, \$3,000; the disbursing clerk, \$3,000; the appointment clerk, \$2,750; the chiefs of division, \$2,500 each; the private secretary to the director, \$2,250; the statistical experts, \$2,000 each; and the stenographers provided for in section three of this Act, \$1,800 each. (Acts July 2, 1909, c. 2, § 5, 36 Stat. 2; March 3, 1919, c. 97, § 5.)

Note.—§ 3 is now § 714.

§ 717. Additional employees during decennial period.—In addition to the force hereinbefore provided for and to that authorized by the legislative, executive, and judicial appropriation Act, for the fiscal year immediately preceding the decennial census period, there may be employed in the Census Office during the decennial census period, and no longer, as many clerks with salaries at the rates of \$1,800, \$1,680, \$1,560, \$1,440, \$1,380, \$1,320, \$1,260, \$1,200, \$1,140, \$1,080, 1,020, \$960, and \$900; one engineer at \$1,200; and two photostat operators, at \$1,200 each; as many skilled laborers, with salaries at the rate of not less than \$720 nor more than \$1,000 per annum; and as many messengers, assistant messengers, messenger boys, watchmen, unskilled laborers, and charwomen as may be found necessary for the proper and prompt performance of the duties herein required; these additional clerks and employees to be appointed by the Director of the Census: Provided, That the total number of such additional clerks with salaries at the rate of \$1,400 or more per annum shall at no time exceed one hundred and fifty: Provided further, That employees engaged in the compilation or tabulation of statistics by the use of mechanical devices may be compensated on a piece-price basis to be fixed by the director: Provided, That hereafter in making appointments to clerical and other positions in the executive departments and in independent governmental

establishments preference shall be given to honorably discharged soldiers, sailors, and marines, and widows of such, if they are qualified to hold such positions.

The additional clerks and other employees provided for by section six shall be subject to such special test examinations as the Director of the Census may prescribe, subject to the approval of the United States Civil Service Commission, these examinations to be conducted by the United States Civil Service Commission, to be open to all applicants without regard to political party affiliations, and to be held at such places in each State as may be designated by the Civil Service Commission. Certifications shall be made by the Civil Service Commission upon request of the Director of the Census from the eligible registers so established, in conformity with the law of apportionment as now provided for the classified service, and selections therefrom shall be made by the Director of the Census, in the order of rating: Provided, That the requirement as to conformity with the law of apportionment shall not apply to messenger boys, unskilled laborers, and charwomen: Provided further, That hereafter all examinations of applicants for positions in the Government service, from any State or Territory, shall be had in the State or Territory in which such applicant resides, and no person shall be eligible for such examination or appointment unless he or she shall have been actually domiciled in such State or Territory for at least one year previous to such examination: Provided further, That the Civil Service Commission shall hold examinations of applicants temporarily absent from the places of their legal residence or domicile in the District of Columbia and elsewhere in the United States where examinations are usually held, upon proof satisfactory to the commission that such applicants are bona fide residents of the States or Territories in which such applicants claim to have legal residence or domicile: Provided further, That nothing herein shall be so construed as to abridge the existing law of apportionment or change the requirements of existing law as to legal residence or domicile of such applicants: And provided further, That no person afflicted with tuberculosis shall be appointed and that each applicant for appointment shall accompany his or her application with a certificate of health from some reputable physician: And provided further, That in no instance shall more than one person be appointed from the same family: And provided further, That when the exigencies of the service require, the director may appoint for temporary employment not exceeding six months' duration from the aforesaid list of eligibles those who, by reason of residence or other conditions, are immediately available; and may also appoint for not exceeding six months' duration persons having had previous experience in operating mechanical appliances in census work whose efficiency records in operating such appliances are satisfactory to him, and may accept such records in lieu of the civil-service examination: And provided further, That employees in other branches of the departmental classified service who have had previous experience in census work may be transferred without examination to the Census Office to serve during the whole or a part of the decennial census period, and at the end of such service the employees so transferred shall be eligible to appointment to positions in any department held by them at date of transfer to the Census Office without examination, but no employee so transferred shall within one year after such transfer receive higher salary than he is receiving at the time of the transfer: And provided further, That during the decennial census period and no longer the Director of the Census may fill vacancies in the permanent force of the Census Office by the promotion or transfer of clerks or other employees employed on the temporary force authorized by section six of this Act: And provided further, That at the expiration of the decennial census period the term of service of all employees so transferred and of all other temporary officers and employees appointed under the provisions of this Act shall terminate, and such officers and employees shall not be eligible to appointment or transfer into the classified service of the Government by virtue of their examination or appointment under this Act: And provided further, That in the selection of the additional clerks and employees provided for by section six the Director of the Census is authorized to use, so far as practicable, the reemployment registers established by Executive

order of November twenty-ninth, nineteen hundred and eighteen, so far as the same applies to permanent appointments by competition. (Acts July 2, 1909, c. 2, §§ 6, 7, 36 Stat. 3; March 3, 1919, c. 97, §§ 6, 7.)

Note.—§ 6 is now § 717.

§ 718a. Suspension of work.—The Secretary of Commerce is authorized, in his discretion, to suspend during the decennial Census period such work of the Census Office, other than the Fourteenth Census, as he may deem advisable. (Act May 29, 1920, c. 214, § 1.)

CHAPTER 7.

THE BUREAU OF STANDARDS.

§ 727a. Coöperative work for departments.—During the fiscal year 1921, the head of any department or independent establishment of the Government having funds available for scientific investigations and requiring coöperative work by the Bureau of Standards on scientific investigations within the scope of the functions of that Bureau and which it is unable to perform within the limits of its appropriations, may, with the approval of the Secretary of Commerce, transfer to the Bureau of Standards such sums as may be necessary to carry on such investigations. The Secretary of the Treasury shall transfer on the books of the Treasury Department any sums which may be authorized hereunder and such amounts shall be placed to the credit of the Bureau of Standards for the performance of work for the department or establishment from which the transfer is made. (Act May 29, 1920, c. 214, § 1.)

TITLE XIV.

THE DEPARTMENT OF LABOR.

CHAPTER 1.

THE DEPARTMENT GENERALLY.

§ 735a. System of employment offices.—To enable the Secretary of Labor to foster, promote, to develop the welfare of the wage earners of the United States, to improve their working conditions, to advance their opportunities for profitable employment by maintaining a national system of employment offices in the several States and political subdivisions thereof and to coördinate the public employment offices throughout the country by furnishing and publishing information as to opportunities for employment and by maintaining a system for clearing labor between the several States, including personal services in the District of Columbia and elsewhere, and for their actual necessary traveling expenses while absent from their official station together with their per diem in lieu of subsistence, when allowed pursuant to section 13 of the Sundry Civil Appropriation Act approved August 1, 1914, supplies and equipment, telegraph and telephone service, and printing and binding, \$400,000. (Acts July 19, 1919, c. 24, § 1.)

Note.—Act Aug. 1. 1914, § 13. is second paragraph of § 2826, Barnes' Federal Code.

CHAPTER 4.

THE BUREAU OF IMMIGRATION.

§ 753. Vehicles for enforcement of laws.—The purchase, use, maintenance, and operation of horse and motor vehicles required in the enforcement of the immigration and Chinese exclusion laws outside of the District of Columbia may be contracted for and the cost thereof paid from the appropriation for the enforcement of those laws, under such terms and conditions as the Secretary of Labor may prescribe. (Acts July 19, 1919, c. 24, § 1.)

CHAPTER 6.

WOMEN'S BUREAU.

§ 756a. **Establishment.**—There shall be established in the Department of Labor a bureau to be known as the Women's Bureau. (Act June 5, 1920, c. 248, § 1.)

§ 756b. **Director; functions of bureau.**—The said bureau shall be in charge of a director, a woman, to be appointed by the President, by and with the advice and consent of the Senate, who shall receive an annual compensation of \$5,000. It shall be the duty of said bureau to formulate standards and policies which shall promote the welfare of wage-earning women, improve their working conditions, increase their efficiency, and advance their opportunities for profitable employment. The said bureau shall have authority to investigate and report to the said department upon all matters pertaining to the welfare of women in industry. The director of said bureau may from time to time publish the results of these investigations in such a manner and to such extent as the Secretary of Labor may prescribe. (Act June 5, 1920, c. 248, § 2.)

§ 756c. **Assistant director.**—There shall be in said bureau an assistant director, to be appointed by the Secretary of Labor, who shall receive an annual compensation of \$3,500 and shall perform such duties as shall be prescribed by the director and approved by the Secretary of Labor. (Act June 5, 1920, c. 248, § 3.)

§ 756d. **Clerks and employees.**—There is hereby authorized to be employed by said bureau a chief clerk and such special agents, assistants, clerks, and other employees at such rates of compensation and in such numbers as Congress may from time to time provide by appropriations. (Act June 5, 1920, c. 248, § 4.)

§ 756e. **Offices and equipment.**—The Secretary of Labor is hereby directed to furnish sufficient quarters, office furniture and equipment, for the work of this bureau. (Act June 5, 1920, c. 248, § 4.)

TITLE XV.

THE JUDICIARY.

CHAPTER 1.

DISTRICT COURTS—ORGANIZATION.

§ 762a. **Additional judge for northern district of Texas.**—The President of the United States, by and with the advice of the Senate, shall appoint an additional judge of the district court of the United States for the northern judicial district of the State of Texas, who shall possess the same powers, perform the same duties, and receive the same compensation and allowance as the present judge of said district. Whenever a vacancy shall occur in the office of the district judge for the northern district of Texas senior in commission such vacancy shall not be filled, and thereafter there shall be but one district judge in said district. (Act Feb. 26, 1919, c. 50, §§ 1, 2.)

§ 763. **Salaries of district judges.**—Each of the district judges, including the judges in Porto Rico, Hawaii, and Alaska exercising Federal jurisdiction, shall receive a salary of \$7,500 a year, to be paid in monthly installments. (J. C. § 2; Acts Feb. 12, 1903, c. 547, 32 Stat. 825; March 3, 1911, c. 231, § 2, 36 Stat. 1087; Feb. 25, 1919, c. 29, § 1.)

§ 764. Clerks.

Note.—See §§ 1163a-1163i herein, providing for the appointment of clerks and deputies, regulating their compensation, and requiring returns and accounts of fees and payment of the same into the treasury.

§ 765. Deputy clerks.

Note.—See §§ 1163a-1163i herein, providing for the appointment of clerks and deputies, regulating their compensation, and requiring returns and accounts of fees and payment of the same into the treasury.

§ 766. Criers and bailiffs.

Note.—Act July 19, 1919, c. 24, § 1, provides that "all persons employed under section 715 of the Revised Statutes shall be deemed to be in actual attendance when they attend upon the order of the courts: Provided further, That no such person shall be employed during vacation." See also § 1137.

CHAPTER 3.**DISTRICT COURTS—REMOVAL OF CAUSES.**

§ 791a. Process after removal.—Hereafter, in all cases removed from any State court to any United States court for trial in which any one or more of the defendants has not been served with process or in which the same has not been perfected prior to such removal, or in which the process served upon the defendant or defendants, or any of them, proves to be defective, such process may be completed by the United States court through its officers, or new process as to defendants upon whom process has not been completed may be issued out of such United States court, or service may be perfected in such court in the same manner as in cases which are originally filed in such United States court: Provided, Nothing in this Act shall be construed to deprive any defendant upon whom process is so served after removal, of his right to move to remand the cause to the State court, the same as if process had been served upon him prior to such removal. (Act April 16, 1920, c. 146.)

CHAPTER 4.**DISTRICT COURTS—MISCELLANEOUS PROVISIONS.**

§ 830a. Action for wrongful death.—Whenever the death of a person shall be caused by wrongful act, neglect, or default occurring on the high seas beyond a marine league from the shore of any State, or the District of Columbia, or the Territories or dependencies of the United States, the personal representative of the decedent may maintain a suit for damages in the district courts of the United States, in admiralty, for the exclusive benefit of the decedent's wife, husband, parent, child, or dependent relative against the vessel, person, or corporation which would have been liable if death had not ensued.

The recovery in such suit shall be a fair and just compensation for the pecuniary loss sustained by the persons for whose benefit the suit is brought and shall be apportioned among them by the court in proportion to the loss they may severally have suffered by reason of the death of the person by whose representative the suit is brought.

Such suit shall be begun within two years from the date of such wrongful act, neglect, or default, unless during that period there has not been reasonable opportunity for securing jurisdiction of the vessel, person, or corporation sought to be charged; but after the expiration of such period of two years the right of action hereby given shall not be deemed to have lapsed until ninety days after a reasonable opportunity to secure jurisdiction has offered.

Whenever a right of action is granted by the law of any foreign State on account of death by wrongful act, neglect, or default occurring upon the high seas, such right may be maintained in an appropriate action in admiralty in the courts of the United States without abatement in respect to the amount for which recovery is authorized, any statute of the United States to the contrary notwithstanding.

If a person die as the result of such wrongful act, neglect, or default as is mentioned in section 1 during the pendency in a court of admiralty of the United States of a suit to recover damages for personal injuries in

respect of such act, neglect, or default, the personal representative of the decedent may be substituted as a party and the suit may proceed as a suit under this Act for the recovery of the compensation provided in section 2.

In suits under this Act the fact that the decedent has been guilty of contributory negligence shall not bar recovery, but the court shall take into consideration the degree of negligence attributable to the decedent and reduce the recovery accordingly.

The provisions of any State statute giving or regulating rights of action or remedies for death shall not be affected by this Act. Nor shall this Act apply to the Great Lakes or to any waters within the territorial limits of any State, or to any navigable waters in the Panama Canal Zone.

This Act shall not affect any pending suit, action, or proceeding. (Act March 30, 1920, c. 111, §§ 1-8.)

Note.—§§ 1, 2, are now §830a.

CHAPTER 5.

DISTRICT COURTS—DISTRICTS; PROVISIONS APPLICABLE TO PARTICULAR STATES.

§ 846. Kentucky.

Note.—Act Jan. 29, 1920, c. 57, provides that "regular terms of the District Court of the United States for the Eastern District of Kentucky shall be held at the following times and places, namely:

At Jackson: Beginning on the first Monday in March and the third Monday in September in each year.

At Frankfort: Beginning on the second Monday in March and fourth Monday in September in each year.

At Covington: Beginning on the first Monday in April and the third Monday in October in each year.

At Richmond: Beginning on the fourth Monday in April and the second Monday in November in each year.

At London: Beginning on the second Monday in May and the fourth Monday in November in each year.

At Catlettsburg: Beginning on the fourth Monday in May and the second Monday in December in each year.

At Lexington: Beginning on the second Monday in January and the second Monday in June in each year: Provided, That suitable rooms and accommodations for holding court at Lexington shall be furnished without expense to the United States.

And at such other times and places as may hereafter be provided by law.

The clerk of the court for the eastern district of Kentucky shall maintain an office in charge of himself, a deputy, or a clerical assistant, at each of the places of holding court within said district."

§ 861. New York.—The State of New York is divided into four judicial districts, to be known as the northern, eastern, southern, and western districts of New York. The northern district shall include the territory embraced on the 1st day of July, 1910, in the counties of Albany, Broome, Cayuga, Chenango, Clinton, Cortland, Delaware, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Madison, Montgomery, Oneida, Onondaga, Oswego, Otsego, Rensselaer, Saint Lawrence, Saratoga, Schenectady, Schoharie, Tioga, Tompkins, Warren, and Washington, with the waters thereof. Terms of the district court for said district shall be held at Albany on the second Tuesday in February; at Utica on the first Tuesday in December; at Binghamton on the second Tuesday in June; at Auburn on the first Tuesday in October; at Syracuse on the first Tuesday in April; and, in the discretion of the judge of the court, one term annually at such time and place within the counties of Rensselaer, Saratoga, Onondago, Saint Lawrence, Clinton, Jefferson, Oswego, and Franklin, as he may from time to time appoint. Such appointment shall be made by notice of at least twenty days published in a newspaper published at the place where said court is to be held. The eastern district shall include the territory embraced on the 1st day of July, 1910, in the counties of Richmond, Kings, Queens, Nassau, and Suffolk, with the waters thereof. Terms of the district court for said district shall be held at Brooklyn on the first Wednesday in every month. The southern district shall include the territory embraced on the 1st day of July, 1910, in the counties of Columbia, Dutchess, Greene, New York, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester, with the waters thereof. Terms of the district court for said district shall be held at New York City on the first Tuesday in each month. The district courts of the southern and eastern districts shall have concurrent jurisdiction over the waters within the counties of New York, Kings, Queens,

Nassau, Richmond, and Suffolk, and over all seizures made and all matters done in such waters; all processes or orders issued within either of said courts or by any judge thereof shall run and be executed in any part of said waters. The western district shall include the territory embraced on the 1st day of July, 1910, in the counties of Allegany, Cattaraugus, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne, Wyoming, and Yates, with the waters thereof. Terms of the district court for said district shall be held at Elmira on the second Tuesday in January; at Buffalo on the second Tuesdays in March and November; at Rochester on the second Tuesday in May; at Jamestown on the second Tuesday in July; at Lockport on the second Tuesday in October; and at Canandaigua on the second Tuesday in September. The regular sessions of the district court for the western district for the hearing of motions, and for proceedings in bankruptcy and the trial of causes in admiralty, shall be held at Buffalo at least two weeks in each month of the year, except August, unless the business is sooner disposed of. The times for holding the same and such other special session as the court shall deem necessary shall be fixed by rules of the court. All process in admiralty causes and proceedings shall be made returnable at Buffalo. The judge of any district in the State of New York may perform the duties of the judge of any other district in such State upon the request of any resident judge entered in the minutes of his court; and in such cases such judge shall have the same powers as are vested in the resident judge. (R. S. §§ 541, 542; J. C. § 97; Acts May 12, 1900, c. 391, 31 Stat. 175; March 3, 1911, c. 231, § 97, 36 Stat. 1119; Jan. 21, 1920, c. 50.)

§ 862. **North Carolina.**—The State of North Carolina is divided into two districts, to be known as the eastern and western districts of North Carolina. The eastern district shall include the territory embraced on the 1st day of July, 1910, in the counties of Beaufort, Bertie, Bladen, Brunswick, Camden, Chatham, Cumberland, Currituck, Craven, Columbus, Chowan, Carteret, Dare, Duplin, Durham, Edgecombe, Franklin, Gates, Granville, Greene, Halifax, Harnett, Hertford, Hyde, Johnston, Jones, Lenoir, Lee, Martin, Moore, Nash, New Hanover, Northampton, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Robeson, Richmond, Sampson, Scotland, Tyrrell, Vance, Wake, Warren, Washington, Wayne, and Wilson. Terms of the district court for the eastern district shall be held at Laurinburg on the Monday before the last Mondays in March and September; at Wilson on the first Mondays in April and October; at Elizabeth City on the second Mondays in April and October; at Washington on the third Mondays in April and October; at Newbern on the fourth Mondays in April and October; at Wilmington on the second Monday after the fourth Mondays in April and October; and at Raleigh on the fourth Monday after the fourth Mondays in April and October and in addition for the trial of civil cases on the first Mondays in March and September: Provided, That the city of Washington, the city of Laurinburg, and the city of Wilson shall each provide and furnish at its own expense a suitable and convenient place for holding the district court at Washington, at Laurinburg, and at Wilson until a courthouse shall be constructed by the United States. The clerk of the court for the eastern district shall maintain an office in charge of himself or a deputy at Raleigh, at Wilmington, at Newbern, at Elizabeth City, at Washington, at Laurinburg, and at Wilson, which shall be kept open at all times for the transaction of the business of the court.

The western district shall include the territory embraced on the 1st day of July, 1910, in the counties of Alamance, Alexander, Ashe, Alleghany, Anson, Buncombe, Burke, Caswell, Cabarrus, Catawba, Cleveland, Caldwell, Clay, Cherokee, Davidson, Davie, Forsyth, Guilford, Gaston, Graham, Henderson, Haywood, Iredell, Jackson, Lincoln, Montgomery, Mecklenburg, Mitchell, McDowell, Madison, Macon, Orange, Polk, Randolph, Rockingham, Rowan, Rutherford, Stanly, Stokes, Surry, Swain, Transylvania, Union, Wilkes, Watauga, Yadkin, and Yancey. Terms of the district court for the western district shall be held in Greensboro on the first Mondays in June and December; at Statesville on the third Mondays in April and October; at Salisbury on the fourth Mondays in April and October; at Asheville on the first Mondays in May and November; at Charlotte on the first Mondays

in April and October; and at Wilkesboro on the fourth Mondays in May and November. The clerk of the court for the western district shall maintain an office in charge of himself or a deputy at Greensboro, at Asheville, at Statesville, and at Wilkesboro, which shall be kept open at all times for the transaction of the business of the court. (R. S. § 543; J. C. § 98; Acts March 3, 1911, c. 231, § 98, 36 Stat. 1120; Oct. 7, 1914, c. 318, 38 Stat. 728; March 17, 1920, c. 101, § 1.)

Note.—By § 2 of the Act last cited, the Act entitled "An Act providing for the establishment of two additional terms of the district court for the eastern district of North Carolina at Raleigh, North Carolina," approved April 27, 1916, is repealed.

§ 865. Oklahoma.

Note.—Res. Feb. 26, 1919, c. 54, provides that "one term of the United States District Court for the Eastern District of Oklahoma shall be held each year on the second Monday in May at Hugo, in said State and district, and all Acts and parts of Acts not in accordance herewith are hereby modified in accordance with the provisions of this Act: Provided, That suitable quarters for holding said court shall be furnished without expense to the Government."

§ 873. Texas.

Note.—Act March 1, 1919, c. 87, provides that "hereafter the terms of the district court of the United States in the Amarillo division of the northern district of Texas shall be held at Amarillo, Texas, on the third Monday in April and the second Monday in September of each year."

CHAPTER 6.

CIRCUIT COURT OF APPEALS.

§ 883. **Circuit judges.**—There shall be in the second, seventh, and eighth circuits, respectively, four circuit judges; in the fourth circuit, two circuit judges; and in each of the other circuits, three circuit judges, to be appointed by the President, by and with the advice and consent of the Senate. All circuit judges shall receive a salary of \$8,500 a year each, payable monthly. Each circuit judge shall reside within his circuit. The circuit judges in each circuit shall be judges of the circuit court of appeals in that circuit, and it shall be the duty of each circuit judge in each circuit to sit as one of the judges of the circuit court of appeals in that circuit from time to time according to law: Provided, That nothing in this section shall be construed to prevent any circuit judge holding district court or otherwise, as provided for and authorized in other sections of this Act. (J. C. § 118; Acts March 3, 1911, c. 231, § 118, 36 Stat. 1131; Jan. 13, 1912, c. 9, 37 Stat. 52; Feb. 25, 1919, c. 29, § 2.)

Note.—Section 3 of the Act last cited provides: "The judges of the Supreme Court of the District of Columbia shall receive salaries the same as salaries provided by this Act to be paid to judges of district courts of the United States, and such salaries shall be paid as now provided by law. The judges of the Court of Appeals of the District of Columbia shall receive salaries the same as the salaries provided by this Act to be paid to judges of the circuit court of appeals of the United States, and such salaries shall be paid as now provided by law."

CHAPTER 7.

THE COURT OF CLAIMS.

§ 901. **Court continued; judges.**—The Court of Claims established by Act of February twenty-fourth, eighteen hundred and fifty-five, shall be continued. It shall consist of a Chief Justice and four judges, who shall be appointed by the President by and with the advice and consent of the Senate, and hold their offices during good behavior. Each of them shall take an oath to support the Constitution of the United States and to discharge faithfully the duties of his office. The Chief Justice shall be entitled to receive an annual salary of \$8,000, and each of the other judges an annual salary of \$7,500, payable monthly from the Treasury. (J. C. § 136; R. S. § 1049; Acts Feb. 12, 1903, c. 547, 32 Stat. 825; March 3, 1911, c. 231, § 136, 36 Stat. 1135; Feb. 25, 1919, c. 29, § 4.)

§ 910. Jurisdiction.

Note.—By Act March 3, 1919, c. 103, jurisdiction is conferred upon the court to hear and determine the claim of the Cherokee Nation against the United States for interest alleged to be owing on funds arising from a judgment of said court of May 18, 1906, in favor of the Indian Tribe mentioned.

CHAPTER 8.

THE COURT OF CUSTOMS APPEALS.

§ 953a. Salaries of judges.—The judges of the United States Court of Customs Appeal shall receive salaries equal in amount to the salaries provided by this Act to be paid judges of the Circuit Court or Appeals of the United States, payable monthly from the Treasury. (Act Feb. 25, 1919, c. 29, § 5.)

Note.—See § 883 herein for the salaries so referred to.

CHAPTER 11.

PROVISIONS COMMON TO MORE THAN ONE COURT.

§ 1026. Resignation or retirement of judges; salaries; disability.—When any judge of any court of the United States, appointed to hold his office during good behavior, resigns his office after having held a commission or commissions as judge of any such court or courts at least ten years continuously, and having attained the age of seventy years, he shall, during the residue of his natural life receive the salary which is payable at the time of his resignation for the office that he held at the time of his resignation. But, instead of resigning, any judge other than a justice of the Supreme Court, who is qualified to resign under the foregoing provisions, may retire, upon the salary of which he is then in receipt, from regular active service on the bench, and the President shall thereupon be authorized to appoint a successor; but a judge so retiring may nevertheless be called upon by the senior circuit judge of that circuit and be by him authorized to perform such judicial duties in such circuit as such retired judge may be willing to undertake, or he may be called upon by the Chief Justice and be by him authorized to perform such judicial duties in any other circuit as such retired judge may be willing to undertake, or he may be called upon either by the presiding judge or senior judge of any other such court and be by him authorized to perform such judicial duties in such court as such retired judge may be willing to undertake.

In the event any circuit judge, or district judge, having so held a commission or commissions at least ten years continuously, and having attained the age of seventy years as aforesaid, shall nevertheless remain in office, and not resign or retire as aforesaid, the President, if he finds any such judge is unable to discharge efficiently all the duties of his office by reason of mental or physical disability of permanent character, may, when necessary for the efficient dispatch of business, appoint, by and with the advice and consent of the Senate an additional circuit judge of the circuit or district judge of the district to which such disabled judge belongs. And the judge so retiring voluntarily, or whose mental or physical condition caused the President to appoint an additional judge, shall be held and treated as if junior in commission to the remaining judges of said court, who shall, in the order of the seniority of their respective commissions, exercise such powers and perform such duties as by law may be incident to seniority. In districts where there may be more than one district judge, if the judges or a majority of them can not agree upon the appointment of officials of the court, to be appointed by such judges, then the senior judge shall have the power to make such appointments.

Upon the death, resignation, or retirement of any circuit or district judge, so entitled to resign, following the appointment of any additional judge as provided in this section, the vacancy caused by such death, resignation, or retirement of the said judge so entitled to resign shall not be filled. (R. S. § 714; J. C. § 260; Acts Feb. 15, 1909, c. 127, 35 Stat. 619; March 3, 1911, c. 231, § 260, 36 Stat. 1161; Feb. 25, 1919, c. 29, § 6.)

§ 1043. New trials; review of technical errors or defects.—All of the said courts shall have power to grant new trials, in cases where there has been a

trial by jury, for reasons for which new trials have usually been granted in the courts of law. On the hearing of any appeal, certiorari, writ of error, or motion for a new trial, in any case, civil or criminal, the court shall give judgment after an examination of the entire record before the court, without regard to technical errors, defects, or exceptions which do not affect the substantial rights of the parties. (R. S. § 726; J. C. § 269; Acts March 3, 1911, c. 231, § 269, 36 Stat. 1163; Feb. 26, 1919, c. 48.)

CHAPTER 16.

DISTRICT ATTORNEYS AND OTHER COURT OFFICERS.

§ 1125a. **Embezzlement by court officers.**—Any United States marshal, clerk, receiver, referee, trustee, or other officer of a United States court, or any deputy, assistant, or employee of any such marshal, clerk, receiver, referee, trustee, or other officer who shall, after demand by the party entitled thereto, unlawfully retain or who shall convert to his own use or to the use of another any moneys received for or on account of costs or advance deposits to cover fees, expenses, or costs, deposits for fees or expenses in bankruptcy cases, composition funds or money of bankrupt estates, fees in naturalization matters, or any other money whatever which has come into his hands by virtue of his official relation or by the fact of his official position or employment shall be deemed guilty of embezzlement and shall, where the offense is not otherwise punishable by some statute of the United States, be fined not more than double the value of the money thus retained or converted or imprisoned not more than ten years, or both; and it shall not be a defense in such case that the accused person had an interest, contingent or otherwise, in some part of such moneys or of the fund from which they were retained or converted. (Act May 29, 1920, c. 212.)

§ 1136. **Law books (From appropriation act).**—For purchase and rebinding of law books, including the exchange thereof, for United States judges, district attorneys, and other judicial officers, including the nine libraries of the United States circuit courts of appeals, to be expended under the direction of the Attorney General: Provided, That such books shall in all cases be transmitted to their successors in office; all books purchased thereunder to be marked plainly, "The property of the United States." (Acts May 10, 1916, c. 117, § 1, 39 Stat. 119; March 1, 1919, c. 86, § 1.)

Note.—By Act March 1, 1919, c. 86, § 1, it is provided that the clerk of the Court of Appeals, District of Columbia, shall not sell the reports issued by him for more than \$5 per volume.

CHAPTER 17.

FEES AND COMPENSATION OF OFFICERS.

§ 1152. **Mileage or traveling expenses.**

Note.—See §§ 1163a-1163i herein concerning the compensation, expenses and accounts of clerks and their deputies.

§§ 1154-1163. **Return of fees.**

Note.—See §§ 1163a-1163i herein concerning the compensation, expenses and accounts of clerks and their deputies.

§ 1163a. **Appointment of clerks of district courts; taxing and payment of fees; salaries fixed in lieu of fees.**—On and after the first day of July, nineteen hundred and eighteen, all clerks of United States district courts shall be appointed by the judge for the district, or the senior judge if there be more than one judge in the district, subject to the approval of the senior circuit judge for the circuit in which the district is situated, and all fees and emoluments authorized by law to be paid to the clerks of the United States district courts, except the clerks of the district courts of Alaska, shall be charged as heretofore and shall be collected, as far as possible, and paid into the Treasury of the United States in such manner and at such times as hereinafter provided; and such clerks shall be paid, in lieu of the fees and emoluments now allowed by law, an annual salary

as hereinafter provided: Provided, That this section shall not be construed to require or authorize fees to be charged or collected from the United States. (Act Feb. 26, 1919, c. 49, § 1.)

§ 1163b. What salaries allowed clerks.—The clerks of the United States district court for each of the judicial districts of the United States, except the clerks of the district courts of Alaska, shall be paid in lieu of the fees, salaries, and per centum now allowed by law, an annual salary to be fixed by the Attorney General at not less than \$2,500 nor more than \$5,000, based in each instance upon the amount of business transacted by the court and the fees and the emoluments received by the clerks in the four years last preceding. (Act. Feb. 26, 1919, c. 49, § 2.)

§ 1163c. What traveling expenses allowed clerks.—When any clerk of a district court is necessarily absent from his official residence on any official business he shall be allowed his actual traveling expenses only and his necessary and actual expenses for lodging and subsistence, the latter not to exceed \$4 per day. (Act Feb. 26, 1919, c. 49, § 3.)

§ 1163d. Employment and pay of deputy clerks.—When, in the opinion of the Attorney General, the public interest requires it he may, on the recommendation of the clerk of a district court, which recommendation shall state facts (as distinguished from conclusions) showing necessity for the same, allow such clerk to employ necessary deputies and clerical assistants, upon compensation to be fixed by the Attorney General from time to time and paid as hereinafter provided. When any such deputy or clerical assistant is necessarily absent from the place of his regular employment on official business he shall be allowed his actual traveling expenses only and his necessary and actual expenses for lodging and subsistence, the latter not to exceed \$3 per day. (Act Feb. 26, 1919, c. 49, § 4.)

Note.—Act Nov. 4, 1919, c. 93, § 1, provides that "per diem in lieu of subsistence may be granted to clerks of United States district courts, their deputies and other assistants, instead of, but at the rates prescribed and under conditions applicable to the allowance for actual expenses of subsistence, as provided in this Act.

§ 1163e. Allowance to clerks for office expenses.—The necessary office expenses of the clerks of the district courts of the United States shall be allowed when authorized by the Attorney General. (Act Feb. 26, 1919, c. 49, § 5.)

§ 1163f. Payment of salaries of clerks and deputies.—The salaries of the clerks, deputy clerks, and clerical assistants to the clerks of the district courts shall be paid monthly by the marshals of the respective districts. (Act Feb. 26, 1919, c. 49, § 6.)

§ 1163g. Expense accounts of clerks and deputies.—The expense accounts of clerks of the United States district courts, when made out and verified, and the expense accounts of their deputy clerks and clerical assistants, when made out and certified as correct by the clerk of such court, covering the necessary expenses incurred by such clerk, deputy clerk, or clerical assistants when necessarily absent from the place of regular employment on official business, shall be paid by the marshal, who shall include them in his accounts with the United States. (Act Feb. 26, 1919, c. 49, § 7.)

§ 1163h. Payment of office expenses of clerks and deputies.—The necessary office expenses of the clerk of the United States district court, as allowed and authorized by the Attorney General, shall be paid by the marshal and included in his accounts with the United States. (Act Feb. 26, 1919, c. 49, § 8.)

§ 1163i. Returns and accounts of fees by clerks.—The clerk of every district court, except the clerks of the district courts of Alaska, shall account quarterly for all the fees and emoluments earned during the quarter last preceding such accounting, except where the person requiring the services the services is relieved by law from prepayment of fees and costs, and for all fees and emoluments received within the quarter which had been earned prior thereto. Such accounting shall be in writing and shall be made to the Attorney General, in such form as he may prescribe, on the

first days of January, April, July, and October in each year, or within twenty days thereafter, and shall include all moneys received in connection with the admission of attorneys to practice in the court, all that portion retained by the clerk of moneys received for services in naturalization proceedings in whatever capacity rendered, and all other amounts received for services in any way connected with the clerk's office. Such accounts shall be made in duplicate and be verified by the oath of the officer making them. The Attorney General shall cause each such return or account to be carefully examined by the proper officer of the Department of Justice and shall approve the same as he may deem just and proper, and shall transmit it with his approval to the Auditor for the State and Other Departments, by whom an account shall be stated against the officer rendering such return or account. Immediately upon receipt of notice from the auditor, or within ten days thereafter, the clerk shall deposit to the credit of the Treasurer of the United States the amount so stated against him. (Act Feb. 26; 1919, c. 49, § 9.)

§§ 1164-1167. Clerks in California, Oregon and Nevada.

Note.—See §§ 1163a-1163i concerning compensation, expenses and accounts of clerks and their deputies.

§ 1169. Clerks of circuit courts of appeals.

Note.—Act July 19, 1919, c. 24, § 1, provides that "after July 1, 1919, only actual expenses of travel and expenses of lodging and subsistence, not to exceed \$5 per day, shall be allowed any clerk of a United States circuit court of appeals when absent from his official residence on official business." See also § 1163d, *supra*.

§ 1178. Salaries of district attorneys.

Note.—Act Feb. 26, 1919, c. 51, provides that "from and after the passage of this Act the salary of the United States district attorney for the district of Connecticut shall be at the rate of \$4,500 a year."

§ 1179. Assistant district attorneys.

Note.—Act July 19, 1919, c. 24, § 1, provides that "from and after July 1, 1919, sections 6, 8, 13, 14, 15, 16, and 18 of the Legislative, Executive, and Judicial Appropriation Act, approved May 28, 1896, shall be applicable to the office of the district attorney for the District of Columbia and his assistants. Certificates to the effect that the public interest requires the appointment of assistants to the said district attorney shall be made by the chief justice of the Supreme Court of the District of Columbia and the district attorney. The district attorney shall be paid a salary of \$6,000 per annum in full compensation for all his official services and his principal assistant shall be paid a salary not in excess of \$4,000 per annum, as the Attorney General may from time to time determine.

"For regular assistants to the United States district attorneys who are appointed by the Attorney General at a fixed annual compensation, \$400,000: Provided, That except as otherwise prescribed by law the compensation of such of the assistant district attorneys authorized by section 8 of the act approved May 28, 1896, as the Attorney General may deem necessary, may be fixed at not exceeding \$3,000 per annum." See also §§ 1193, 1202.

§ 1183. Expenses of marshals.

Note.—Act July 19, 1919, c. 24, § 1, provides that "marshals and office deputy marshals (except in the District of Alaska) may be granted a per diem of not to exceed \$4 and \$3, respectively, in lieu of subsistence, instead of, but under the conditions prescribed for, the present allowance for actual expenses of subsistence."

§ 1193. Traveling expenses of district attorneys and assistants.

Note.—Act July 19, 1919, c. 24, § 1, provides that "United States district attorneys and their regular assistants may be granted a per diem of not to exceed \$4 in lieu of subsistence, instead of, but under the conditions prescribed for, the present allowance for actual expenses of subsistence." See also §§ 1179, 1202.

§ 1207. Expenses of officers sent away as witnesses.

Note.—By Act March 1, 1919, c. 86, § 1, making appropriations for salaries and expenses of officers and employees engaged in collecting internal revenue, it is provided "that no part of this amount shall be used in defraying the expenses of any officer, designated above, subpoenaed by the United States court to attend any trial before a United States court or preliminary examination before any United States commissioner, which expenses shall be paid from the appropriation for 'Fees of witnesses, United States courts.'"

TITLE XVI.

THE ARMY.

CHAPTER 1.

ORGANIZATION.

§ 1452. **Composition of Army of United States.**—The Army of the United States shall consist of the Regular Army, the National Guard while in the service of the United States, and the Organized Reserves, including the Officers' Reserve Corps and the Enlisted Reserve Corps. (Act June 3, 1916, c. 134, § 1, 39 Stat. 166; June 4, 1920, c. 227, § 1.)

§ 1453. **Composition of Regular Army.**—The Regular Army of the United States shall consist of the Infantry, the Cavalry, the Field Artillery, the Coast Artillery Corps, the Air Service, the Corps of Engineers, the Signal Corps, which shall be designated as the combatant arms or the line of the Army; the General Staff Corps; the Adjutant General's Department; the Inspector General's Department; the Judge Advocate General's Department; the Quartermaster Corps; the Finance Department; the Medical Department; the Ordnance Department; the Chemical Warfare Service; the officers of the Bureau of Insular Affairs; the officers and enlisted men under the jurisdiction of the Militia Bureau; the chaplains; the professors and cadets of the United States Military Academy; the present military storekeeper; detached officers; detached enlisted men; unassigned recruits; the Indian Scouts; the officers and enlisted men of the retired list; and such other officers and enlisted men as are now or may hereafter be provided for. Except in time of war or similar emergency when the public safety demands it, the number of enlisted men of the Regular Army shall not exceed two hundred and eighty thousand, including the Philippine Scouts. (Acts June 3, 1916, c. 134, § 2, 39 Stat. 166; June 4, 1920, c. 227, § 2.)

Note.—Act July 11, 1919, c. 8, § 1, provides that "the several organizations of the Army, to wit: The Chemical Warfare Service, the Air Service, the Construction Division, the Tank Corps, and the Motor Transport Corps, with their powers and duties as defined in orders and regulations in force and effect on November 11, 1918, shall be continued to and until June 30, 1920."

§ 1454. **Officers.**—Officers commissioned to and holding in the Army the office of a general officer shall hereafter be known as general officers of the line. Officers commissioned to and holding in the Army an office other than that of general officer, but to which the rank of a general officer is attached, shall be known as general officers of the staff. There shall be one general, as now authorized by law, until a vacancy occurs in that office, after which it shall cease to exist. On and after July 1, 1920, there shall be twenty-one major generals and forty-six brigadier generals of the line; five hundred and ninety-nine colonels; six hundred and seventy-four lieutenant colonels; two thousand two hundred and forty-five majors; four thousand four hundred and ninety captains; four thousand two hundred and sixty-six first lieutenants; two thousand six hundred and ninety-four second lieutenants; and also the number of officers of the Medical Department and chaplains, hereinafter provided for, professors as now authorized by law, and the present military storekeeper, who shall hereafter have the rank, pay and allowances of major; and the numbers herein prescribed shall not be exceeded: Provided, That major generals of the line shall be appointed from officers of the grade of brigadier general of the line, and brigadier generals of the line shall be appointed from officers of the grade of colonel of the line whose names are borne on an eligible list prepared annually by a board of not less than five general officers of the line, not below the grade of major general: Provided further, That the first board convened after the passage of this Act may place upon such eligible list any officer of the line of not less than twenty-two years' commissioned service. Officers of all grades in the Infantry, Cavalry, Field Artillery, Coast Artillery Corps, Corps of Engineers, and Medical Department; officers above the grade of captain in the Signal Corps, Judge Advo-

cate General's Department, Quartermaster Corps, Ordnance Department and Chemical Warfare Service, all chaplains and professors, and the military storekeeper shall be permanently commissioned in their respective branches. All officers of the General Staff Corps, Inspector General's Department, Bureau of Insular Affairs and Militia Bureau shall be obtained by detail from officers of corresponding grades in other branches. Other officers may be either detailed, or with their own consent, be permanently commissioned, in the branches to which they are assigned for duty.

Hereafter the President be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint any chief of a staff corps, department, or bureau of the Army who has had forty or more years of service in the Army, a major general of the line of the Army. The officers so appointed shall not exceed two, and shall be extra numbers in the list of major generals of the line. (First paragraph, Act June 3, 1916, c. 134, § 4, 39 Stat. 167; June 4, 1920, c. 227, § 4; second paragraph, Act July 9, 1918, c. 143, I, 40 Stat.)

Note.—By Act Oct. 6, 1917, c. 105, § 3, 40 Stat. 410, the President was authorized to appoint generals and lieutenant generals, at \$10,000 and \$9,000 a year, respectively, during the existing war. By the same Act the chief of any existing staff, corps, department or bureau, was given the rank, pay and allowance of major general.

§ 1454a. Warrant officers.—In addition to those authorized for the Army Mine Planter Service, there shall be not more than one thousand one hundred and twenty warrant officers, including band leaders, who shall hereafter be warrant officers. Appointments shall be made by the Secretary of War from among noncommissioned officers who have at least ten years' enlisted service; enlisted men who served as officers of the Army at some time between April 6, 1917, and November 11, 1918, and whose total service in the Army, enlisted and commissioned, amounts to five years; persons serving or who have served as Army field clerks or field clerks, Quartermaster Corps; and, in the case of those who are to be assigned to duty as band leaders, from among persons who served as Army band leaders at some time between April 6, 1917, and November 11, 1918, or enlisted men possessing suitable qualifications. Hereafter no appointments as Army field clerks or field clerks, Quartermaster Corps, shall be made. Warrant officers other than those of the Army Mine Planter Service, shall receive base pay of \$1,320 a year and the allowances of a second lieutenant, shall be entitled to longevity pay and to retirement under the same conditions as commissioned officers; and shall take rank next below second lieutenants and among themselves according to the dates of their respective warrants. (Act June 3, 1916, c. 134, § 4a, as added by Act June 4, 1920, c. 227, § 4.)

§ 1454b. Assignments of officers.—Officers and enlisted men shall be assigned to the several branches of the Army as hereafter directed, a suitable proportion of each grade in each branch, but the President may increase or diminish the number of officers or enlisted men assigned to any branch by not more than a total of 15 per centum: Provided, That the total number authorized in any grade by this Act is not exceeded: Provided further, That the number of enlisted men herein authorized for any branch shall include such number of Philippine Scouts as may be organized in that branch: Provided further, That no officer shall be transferred from one branch of the service to another under the provisions of this section without his own consent. Except as otherwise herein prescribed, chiefs and assistants to the chiefs of the several branches shall hereafter be appointed by the President, by and with the advice and consent of the Senate, for a period of four years, and such appointments shall not create vacancies. Appointment as chief of any branch shall be made from among officers commissioned in grades not below that of colonel, and as assistant from among officers of not less than fifteen years' commissioned service, who have demonstrated by actual and extended service in such branch or on similar duty that they are qualified for such appointment: Provided, That the chiefs of the several branches shall make recommendations to the Secretary of War for the appointment of their assistants: Provided further, That in making the first appointment to any such office created by this Act, the chief of a branch may be selected from among officers of not less than twenty-two years' commissioned service. Any officer

who shall have served four years as chief of a branch, and who may subsequently be retired, shall be retired with the rank, pay and allowances authorized by law for the grade held by him as such chief. In time of peace no officer of the line shall be or remain detailed as a member of the General Staff Corps unless he has served for two of the next preceding six years in actual command of troops of one or more of the combatant arms; and in time of peace every officer serving in a grade below that of brigadier general shall perform duty with troops of one or more of the combatant arms for at least one year in every period of five consecutive years, except that officers of less than one year's commissioned service in the Regular Army may be detailed as students at service schools: Provided, That an officer commissioned in a staff corps shall not be or remain detailed as a member of the General Staff Corps unless he has served for one of the next preceding five years with troops of one or more of the combatant arms. In the administration of this provision, all duty performed between April 6, 1917, and July 1, 1920, inclusive, or as a student at service schools, other than those of the noncombatant branches, at any time, shall be regarded as satisfying the requirements of service with combatant arms. Existing laws in so far as they restrict the detail or assignment of officers are hereby repealed. The Secretary of War shall annually report to Congress the numbers, grades, and assignments of the officers and enlisted men of the Army, and the number, kinds, and strength of organizations pertaining to each branch of the service. (Act June 3, 1916, c. 134, § 4c, as added by act June 4, 1920, c. 227, § 4.)

§ 1454c. General of the Armies of the United States.—The office of General of the Armies of the United States is hereby revived, and the President is hereby authorized, in his discretion and by and with the advice and consent of the Senate, to appoint to said office a general officer of the Army who, on foreign soil and during the recent war, has been especially distinguished in the higher command of military forces of the United States; and the officer appointed under the foregoing authorization shall have the pay prescribed by section 24 of the Act of Congress approved July 15, 1870, and such allowances as the President shall deem appropriate; and any provision of existing law that would enable any other officer of the Army to take rank and precedence over said officer is hereby repealed: Provided, That no more than one appointment to office shall be made under the terms of this Act. (Act Sept. 3, 1919, c. 56, § 1.)

§ 1455. Cavalry.—The Cavalry shall consist of one Chief of Cavalry with the rank of major general, nine hundred and fifty officers in grades from colonel to second lieutenant, inclusive, and twenty thousand enlisted men, organized into Cavalry units as the President may direct. (Acts June 3, 1916, c. 134, § 18, 39 Stat. 179; June 4, 1920, c. 227, § 18.)

§ 1458. Repealed by Act June 4, 1920, c. 227, § 16.

§ 1458a. Army horses.—When practicable, horses shall be purchased in open market at all military posts or stations, when needed, within a maximum price to be fixed by the Secretary of War: Provided further, That no part of this appropriation shall be expended for the purchase of any horse below the standard set by Army Regulations for Cavalry, and Artillery horses, except when purchased as remounts or for instruction of cadets at the United States Military Academy: Provided further, That no part of this appropriation shall be expended for polo ponies except for West Point Military Academy, and such ponies shall not be used at any other place: Provided further, That not to exceed \$250,000 of the appropriation hereby made shall be available for the encouragement of the breeding of riding horses suitable for the Army, including coöperation with the Bureau of Animal Industry, Department of Agriculture, and for the purchase of animals for breeding purposes and their maintenance: Provided further, That the Secretary of War may, in his discretion, and under such rules and regulations as he may prescribe, accept donations of animals for breeding and donations of money for other property to be used as prizes or awards at agricultural fairs, horse shows, and similar exhibitions, in order to encourage the breeding of riding horses suitable for Army purposes: And provided further, That the Secretary of War shall report

annually to Congress, at the commencement of each session, a statement of all expenditures under this appropriation, and full particulars of means adopted and carried into effect for the encouragement of the breeding of riding horses suitable for the military service. (Act June 5, 1920, c. 240.)

§ 1461. Coast Artillery Corps.—The Coast Artillery Corps shall consist of one Chief of Coast Artillery with the rank of major general, one thousand two hundred officers in grades from colonel to second lieutenant, inclusive, the warrant officers of the Army Mine Planter Service as now authorized by law, and thirty thousand enlisted men, organized into such Coast Artillery units as the President may direct. (Acts Jan. 25, 1907, § 5, 34 Stat. 861; June 3, 1916, c. 134, § 20, 39 Stat. 180; June 4, 1920, c. 227, § 20.)

§ 1462a. Extra pay for warrant officers.—Commencing January 1, 1920, warrant officers, Army Mine Planter Service, shall be paid, in addition to all pay and allowances now authorized by law, an increase at the rate of \$240 per annum: Provided, That this increase shall remain effective until the close of the fiscal year ending June 30, 1922, unless sooner amended or repealed. (Act June 5, 1920, c. 240.)

§ 1464. Field Artillery.—The Field Artillery shall consist of one Chief of Field Artillery with the rank of major general, one thousand nine hundred officers in grades from colonel to second lieutenant, inclusive, and thirty-seven thousand enlisted men, organized into Field Artillery units as the President may direct. (Acts June 3, 1916, c. 134, § 19, 39 Stat. 179; June 4, 1920, c. 227, § 19.)

§ 1467. Infantry.—The Infantry shall consist of one Chief of Infantry with the rank of major general; four thousand two hundred officers in grades from colonel to second lieutenant, inclusive, and one hundred and ten thousand enlisted men, organized into such Infantry units as the President may direct. Hereafter all tank units shall form a part of the Infantry. (Acts July 9, 1918, c. 143, XX, 40 Stat. 845; June 3, 1916, c. 134, § 17, 39 Stat. 177; June 4, 1920, c. 227, § 17.)

Note.—See this section and § 1466 in Barnes' Federal Code.

§ 1470a. Philippine Scouts.—The President is authorized to form the Philippine Scouts into such branches and tactical units as he may deem expedient, within the limit of strength prescribed by law, organized similarly to those of the Regular Army, the officers to be detailed from those authorized in section 4 hereof. On July 1, 1920, all officers of the Philippine Scouts on the active list, who are citizens of the United States and are found qualified under such regulations as the President may prescribe, shall be recommissioned in some one of the branches provided for by this Act, and those not so recommissioned shall continue to serve under their commissions as officers of the Philippine Scouts. No further appointments shall be made as officers of the Philippine Scouts except of citizens of the Philippine Islands, who may be appointed in the grade of second lieutenant, under such regulations as the President may prescribe. Officers commissioned in the Philippine Scouts shall be subject to promotion, classification, and elimination, as hereinafter prescribed for officers of the Regular Army. Those now on the retired list shall hereafter receive the same pay as a retired second lieutenant of equal service. Officers of the Philippine Scouts shall hereafter be retired under the same conditions, and those hereafter placed on the retired list shall receive the same retired pay, as other officers of like grade and length of service, and shall be equally eligible for advancement on account of active duty performed since retirement. Nothing in this Act shall be construed to alter in any respect the present status of enlisted men of the Philippine Scouts. (Act June 3, 1916, c. 134, § 22a, as added by Act June 4, 1920, c. 227, § 22.)

Note.—See Barnes' Federal Code, §§ 1454, 1470.

§ 1472. Porto Rico Regiment of Infantry.—The Porto Rico Regiment of Infantry and the officers and enlisted men of such regiment shall become a part of the Infantry branch herein provided for, and its officers shall, on July 1, 1920, be recommissioned in the Infantry with their present grades and dates of rank, unless promoted on that date in accordance with the provisions of section 24 hereof. (Acts Feb. 2, 1901, c. 192, § 37, 31 Stat. 758;

April 23, 1904, c. 1485, 35 Stat. 266; May 11, 1908, c. 163, 35 Stat. 114; May 27, 1908, c. 201, 35 Stat. 392; March 4, 1915, c. 143, § 1, 38 Stat. 1070; June 3, 1916, c. 134, § 21, 39 Stat. 180; June 4, 1920, c. 227, § 21.)

Note.—See §§ 1573, 1597, herein, for § 24, so referred to.

§ 1474. Organization of the Army.—The Organized peace establishment, including the Regular Army, the National Guard and the Organized Reserves, shall include all of those divisions and other military organizations necessary to form the basis for a complete and immediate mobilization for the national defense in the event of a national emergency declared by Congress. The Army shall at all time be organized so far as practicable into brigades, divisions and army corps, and whenever the President may deems it expedient, into armies. For purposes of administration, training and tactical control, the continental area of the United States shall be divided on a basis of military population into corps area. Each corps area shall contain at least one division of the National Guard or Organized Reserves, and such other troops as the President may direct. The President is authorized to group any or all corps areas into army areas or departments. (Acts June 3, 1916, c. 134, § 3, 39 Stat. 166; June 4, 1920, c. 227, § 3.)

§ 1478. General Staff Corps.—The General Staff Corps shall consist of the Chief of Staff, the War Department General Staff and the General Staff with troops. The War Department General Staff shall consist of the Chief of Staff and four assistants to the Chief of Staff selected by the President from the general officers of the line, and eighty-eight other officers of grades not below that of captain. The General Staff with troops shall consist of such number of officers not below the grade of captain as may be necessary to perform the General Staff duties of the headquarters of territorial departments, armies, army corps, divisions, and brigades, and as military attachés abroad. In time of peace the detail of an officer as a member of the General Staff Corps shall be for a period of four years, unless sooner relieved, and such details shall be limited to officers whose names are borne on the list of General Staff Corps eligibles. The initial eligible list shall be prepared by a board consisting of the general of the army, the commandant of the General Staff College, the commandant of the General Service Schools, and two other general officers of the line, selected by the Secretary of War, who are not then members of the General Staff Corps. This board shall select and report the names of all officers of the Regular Army, National Guard, and Officers' Reserve Corps of the following classes who are recommended by them as qualified by education, military experience, and character for General Staff duty;

(a) Those officers graduated from the Army Staff College or the Army War College prior to July 1, 1917, who, upon graduation, were specifically recommended for duty as commander or chief of staff of a division or higher tactical unit or for detail in the General Staff Corps;

(b) Those officers who, since April 6, 1917, have commanded a division or higher tactical unit, or have demonstrated by actual service in the World War that they are qualified for General Staff duty.

After the completion of the initial General Staff Corps eligible list, the name of no officer shall be added thereto unless upon graduation from the General Staff School he is specifically recommended as qualified for General Staff duty, and hereafter no officer of the General Staff Corps except the Chief of Staff shall be assigned as a member of the War Department General Staff unless he is a graduate of the General Staff College or his name is borne on the initial eligible list. The Secretary of War shall publish annually the list of officers eligible for General Staff duty, and such eligibility shall be noted in the annual Army Register. If at any time the number of officers available and eligible for detail to the General Staff is not sufficient to fill all vacancies therein, majors or captains may be detailed as acting General Staff Officers under such regulations as the President may prescribe: Provided, That in order to insure intelligent cooperation between the General Staff and the several noncombatant branches officers of such branches may be detailed as additional members of the General Staff Corps under such special regulations as to eligibility and redetail as may be prescribed by the President; but not more than two officers from each such branch shall be detailed as members of the War Department General Staff.

The duties of the War Department General Staff shall be to prepare plans for national defense and the use of the military forces for that purpose, both separately and in conjunction with the naval forces, and for the mobilization of the manhood of the Nation and its material resources in an emergency, to investigate and report upon all questions affecting the efficiency of the Army of the United States, and its state of preparation for military operations; and to render professional aid and assistance to the Secretary of War and the Chief of Staff.

All policies and regulations affecting the organization, distribution and training of the National Guard and the Organized Reserves, and all policies and regulations affecting the appointment, assignment, promotion, and discharge of reserve officers, shall be prepared by committees of appropriate branches or divisions of the War Department General Staff, to which shall be added an equal number of reserve officers, including reserve officers who hold or have held commissions in the National Guard, and whose names are borne on lists of officers suitable for such duty, submitted by the governors of the several States and Territories. For the purposes specified herein, they shall be regarded as additional members of the General Staff while so serving: Provided, That prior to January 1, 1921, National Guard officers who do not hold reserve commissions, if recommended by the governors of the several States and Territories, may be designated by the President as members of the committees herein provided for, and while so serving such officers shall receive the pay and allowances of their corresponding grades in the Regular Army.

The duties of the General Staff with troops shall be to render professional aid and assistance to the general officers over them; to act as their agents in harmonizing the plans, duties, and operations of the various organizations and services under their jurisdiction, in preparing detailed instructions for the execution of the plans of the commanding generals, and in supervising the execution of such instructions.

The Chief of Staff shall preside over the War Department General Staff and, under the direction of the President, or of the Secretary of War under the direction of the President, shall cause to be made, by the War Department General Staff, the necessary plans for recruiting, organizing, supplying, equipping, mobilizing, training, and demobilizing the Army of the United States and for the use of the military forces for national defense. He shall transmit to the Secretary of War the plans and recommendations prepared for that purpose by the War Department General Staff and advise him in regard thereto; upon the approval of such plans or recommendations by the Secretary of War, he shall act as the agent of the Secretary of War in carrying the same into effect. Whenever any plan or recommendation involving legislation by Congress affecting national defense or the reorganization of the Army is presented by the Secretary of War to Congress, or to one of the committees of Congress, the same shall be accompanied, when not incompatible with the public interest, by a study prepared in the appropriate division of the War Department General Staff, including the comments and recommendations of said division for or against such plan, and such pertinent comments for or against the plan as may be made by the Secretary of War, the Chief of Staff, or individual officers of the division of the War Department General Staff in which the plan was prepared.

Hereafter, members of the General Staff Corps shall be confined strictly to the discharge of duties of the general nature of those specified for them in this section and in the Act of Congress approved February 14, 1903, and they shall not be permitted to assume or engage in work of an administrative nature that pertains to establish bureaux or offices of the War Department, or that, being assumed or engaged in by members of the General Staff Corps, would involve impairment of the responsibility or initiative of such bureaux or offices, or would cause injurious or unnecessary duplication of or delay in the work thereof. (Acts Feb. 14, 1903, c. 553, § 3, 32 Stat. 831; Aug. 24, 1912, c. 391, § 5, 37 Stat. 594; June 3, 1916, c. 134, § 5, 39 Stat. 167; May 12, 1917, c. 12, 40 Stat. 46; June 4, 1920, c. 227, § 5.)

§ 1479. This section is apparently superseded by § 1478 herein.

§ 1480. The War Council.—The Secretary of War, the Assistant Secretary of War, the general of the Army, and the Chief of Staff shall constitute

the War Council of the War Department, which council shall from time to time meet and consider policies affecting both the military and munitions problems of the War Department. Such questions shall be presented to the Secretary of War in the War Council, and his decision with reference to such questions of policy, after consideration of the recommendations thereon by the several members of the War Council, shall constitute the policy of the War Department with reference thereto. (Act June 3, 1916, c. 134, §§ 5, 5b; June 4, 1920, c. 227, § 5.)

§ 1481. Adjutant General's Department.—The Adjutant General's Department shall consist of The Adjutant General with the rank of major general, one assistant with the rank of brigadier general, who shall be Chief of the Personnel Bureau, and one hundred and fifteen officers in grades from colonel to captain, inclusive. The Personnel Bureau shall be charged, under such regulations as may be prescribed by the Secretary of War, with the operating functions of procurement, assignment, promotion, transfer, retirement, and discharge of all officers and enlisted men of the Army: Provided, That Territorial commanders and the chiefs of the several branches of the Army shall be charged with such of the above-described duties within their respective jurisdictions as may be prescribed by the Secretary of War. (R. S. §§ 1094, 1128; Acts March 3, 1875, c. 142, 18 Stat. 478; Feb. 28, 1887, c. 287, 24 Stat. 434; Aug. 6, 1894, c. 228, 28 Stat. 233; March 2, 1889, c. 352, § 6, 30 Stat. 979; June 6, 1900, c. 792, § 3; Feb. 2, 1901, c. 192, § 13, 31 Stat. 751; April 23, 1904, c. 1485; June 3, 1916, c. 134, § 6, 39 Stat. 169; June 4, 1920, c. 227, § 6.)

§ 1485. Inspector General's Department.—The Inspector General's Department shall consist of one Inspector General with the rank of major general and sixty-one officers in grades from colonel to captain, inclusive.

The Secretary of War may, in addition, detail officers of the line, not to exceed four, to act as assistant inspectors-general. (First paragraph, Act June 3, 1916, c. 134, § 7, 39 Stat. 169; June 4, 1920, c. 227, § 7; second paragraph, Act June 23, 1874, c. 458, § 1, 18 Stat. 244.)

Note.—It is probable that the intention of the Acts of 1916 and 1920, cited, was to supersede the Act embodied in the second paragraph of this section.

§ 1486. Judge Advocate General's Department.—The Judge Advocate General's Department shall consist of one Judge Advocate General with the rank of major general and one hundred and fourteen officers in grades from colonel to captain, inclusive: Provided, That immediately upon the passage of this Act the number of colonels of the Judge Advocate General's Department shall be increased by five, and the vacancies thus created shall be filled by promotion in the manner heretofore provided by law. (Act June 3, 1916, c. 134, § 8, 39 Stat. 169; June 4, 1920, c. 227, § 8.)

§ 1487. Superseded by § 1486.

§ 1495. Quartermaster Corps.—The Quartermaster Corps shall consist of one Quartermaster General with the rank of major general, three assistants with the rank of brigadier general, one thousand and fifty officers in grades from colonel to second lieutenant, inclusive, and twenty thousand enlisted men. The Quartermaster General, under the authority of the Secretary of War, shall be charged with the purchase and procurement for the Army of all supplies of standard manufacture and of all supplies common to two or more branches but not with the purchase or the procurement of special or technical articles to be used or issued exclusively by other supply departments; with the direction of all work pertaining to the construction, maintenance, and repair of buildings, structures, and utilities other than fortifications connected with the Army; with the storage and issue of supplies; with the operation of utilities; with the acquisition of all real estate and the issue of licenses in connection with Government reservations; with the transportation of the Army by land and water, including the transportation of troops and supplies by mechanical or animal means; with the furnishing of means of transportation of all classes and kinds required by the Army; and with such other duties not otherwise assigned by law as the Secretary of War may prescribe: Provided, That special and technical articles used or issued exclusively by other branches of the service may be purchased or procured with the approval of the Assistant

Secretary of War by the branches using or issuing such articles, and the chief of each branch may be charged with the storage and issue of property pertaining thereto: Provided further, That utilities pertaining exclusively to any branch of the Army may be operated by such branches. (R. S. §§ 1094, 1132; Acts March 8, 1875, c. 126, 18 Stat. 338; Feb. 27, 1877, c. 69, 19 Stat. 242; March 2, 1899, c. 352, § 7, 30 Stat. 979; Feb. 2, 1901, c. 192, § 16, 31 Stat. 751; June 3, 1916, c. 134, § 9, 39 Stat. 170; June 4, 1920, c. 227, § 9.)

§ 1498. Field clerks.

Note.—Act July 11, 1919, c. 8, § 1, contains the following paragraphs: "For commutation of quarters and of heat and light, \$23,040: Provided, That Army field clerks shall have the same allowances and benefits as heretofore allowed by law to pay clerks, Quartermaster Corps, not including retirement: Provided, however, That the minimum or entrance pay exclusive of said allowances, of said Army field clerks shall be \$1,200 per annum: Provided further, That Army field clerks shall receive the same increase of pay for service beyond the continental limits of the United States as is allowed by law to commissioned officers of the Army: And provided further, That the Secretary of War is authorized to employ, during the present emergency and for a period not exceeding four months thereafter, such additional Army field clerks as may be necessary, not exceeding 4,272.

"For commutation of quarters and of heat and light for field clerks, Quartermaster Corps, \$76,800: Provided, That said clerks, messengers, and laborers shall be employed and assigned by the Secretary of War to the offices and positions in which they are to serve."

§ 1504. Finance Department.—There is hereby created a Finance Department. The Finance Department shall consist of one Chief of Finance with the rank of brigadier general, one hundred and forty-one officers in grades from colonel to second lieutenant, inclusive, and nine hundred enlisted men.

The Chief of Finance, under the authority of the Secretary, shall be charged with the disbursement of all funds of the War Department, including the pay of the Army and the mileage for officers and the accounting therefor; and with such other fiscal and accounting duties as may be required by law, or assigned to him by the Secretary of War: Provided, That under such regulations as may be prescribed by the Secretary of War, officers of the Finance Department, accountable for public moneys, may intrust moneys to other officers for the purpose of having them make disbursements as their agents, and the officer to whom the moneys are intrusted, as well as the officer who intrusts the moneys to him, shall be held pecuniarily responsible therefor to the United States. (Act June 3, 1916, c. 134, § 9a, as added by Act June 4, 1920, c. 227, § 9.)

Note.—See above section in Barnes' Federal Code, which doubtless is wholly superseded by the Act of 1920 cited.

§ 1506. Medical Department.—The Medical Department shall consist of one Surgeon General with the rank of major general, two assistants with the rank of brigadier general, the Medical Corps, the Dental Corps, the Veterinary Corps, the Medical Administrative Corps, a number of enlisted men which until June 30, 1921, shall not exceed 5 per centum of the authorized enlisted strength and thereafter 5 per centum of the actual strength, commissioned and enlisted, of the Regular Army, the Army Nurse Corps as now constituted by law, and such contract surgeons as are now authorized by law. The number of officers of the Medical Corps shall be six and one-half for every thousand, and of the Medical Administrative Corps, one for every two thousand, of the total enlisted strength of the Regular Army, authorized from time to time, and within the peace strength permitted by this Act. The number of officers of the Dental Corps shall be one for every thousand of the total strength of the Regular Army, authorized from time to time, and within the peace strength permitted by this Act. The number of officers of the Veterinary Corps shall be 175.

Hereafter an officer of the Medical or Dental Corps shall be promoted to the grade of captain after three years' service, to the grade of major after twelve years' service, to the grade of lieutenant colonel after twenty years' service, and to the grade of colonel after twenty-six years' service. An officer of the Veterinary Corps shall be promoted to the grade of first lieutenant after three years' service, to the grade of captain after seven years' service, to the grade of major after fourteen years' service,

to the grade of lieutenant colonel after twenty years' service, and to the grade of colonel after twenty-six years' service. An officer of the Medical Administrative Corps shall be promoted to the grade of first lieutenant after five years' service, and to the grade of captain after ten years' service. For purposes of promotion there shall be credited to officers of the Medical Department all active commissioned service in the Regular Army whenever rendered; and also all such service rendered since April 6, 1917, in the Army or in the National Guard when in active service under a call by the President, except service under a reserve commission while in attendance at a school or camp for the training of candidates for commission. To officers of the Dental Corps shall be credited their service as contract dental surgeons and acting dental surgeons, and to officers of the Veterinary Corps, their governmental veterinary service rendered prior to June 3, 1916. The length of service of any officer who shall have lost files by reason of sentence of court-martial or failure in examination for promotion shall be regarded as diminished to the equivalent of the service of the officer of his corps immediately preceding him in relative rank.

Of the vacancies in the Medical Department existing on July 1, 1920, such number as the President may direct shall be filled by the appointment on that date in any grade authorized by this section, of persons under the age of fifty-eight years, other than officers of the Regular Army, who served as officers of the Army at some time between April 6, 1917, and the date of the passage of this Act, the selection to be made by the board of general officers provided for in section 24, and subject to the restrictions as to age therein described. Appointees in the Medical Administrative Corps must also have had at least five years' enlisted service in the Medical Department, and the number appointed in the grades of captain and first lieutenant under the provisions of this paragraph shall not exceed one-half of the whole number authorized for said corps. For purposes of future promotion, any person so appointed in the Medical or Dental Corps shall be considered as having had, on the date of appointment, service equal to that of the junior officer of his grade and corps now in the Regular Army; and in the Veterinary or Medical Administrative Corps, sufficient service to bring him to his grade under the rules established in this section. (R. S. §§ 1094, 1168; Acts Feb. 2, 1901, c. 192, § 18, 31 Stat. 752; April 23, 1908, c. 150, 35 Stat. 66; June 3, 1916, c. 134, § 10, 39 Stat. 171; July 9, 1918, c. 143, I, 40 Stat. 865; June 4, 1920, c. 227, § 10.)

Note.—See §§ 1573, 1597, herein, for § 24, so referred to.

§ 1510. Contract surgeons.

Note.—Act July 11, 1919, c. 8, § 1, provides that "hereafter actual and necessary expenses only, not to exceed \$8 per day, shall be paid to officers of the Army and contract surgeons when traveling by air on duty without troops, under competent orders."

§ 1511. The third paragraph of this section is superseded by § 1506.

§ 1512. Superseded by § 1506.

§ 1514. **Nurse Corps.**—The Nurse Corps (female) of the Medical Department of the Army shall hereafter be known as the Army Nurse Corps, and shall consist of one superintendent, who shall be a graduate of a hospital-training school having a course of instruction of not less than two years; of as many chief nurses, nurses, and reserve nurses as may from time to time be needed and prescribed or ordered by the Secretary of War, and, in the discretion of the Secretary of War, of not exceeding six assistant superintendents, and, for each Army or separate military force beyond the continental limits of the United States, one director and not exceeding two assistant directors of nursing service, all of whom shall be graduates of hospital-training schools and shall have passed such professional, moral, mental, and physical examination as shall be prescribed by the Secretary of War.

Rules and regulations prescribing the duties of the members of the Army Nurse Corps shall be prescribed by the Surgeon General of the United States Army, subject to the approval of the Secretary of War.

The superintendent shall be appointed by, and, at his discretion, be removed by, the Secretary of War; that all other members of said corps shall be appointed by, and, at his discretion, be removed by, the Surgeon General by and with the approval of the Secretary of War; but the assistant

superintendents, the directors, the assistant directors, and the chief nurses shall be appointed by promotion from other members of the corps, and shall, upon being relieved from duty as such, unless removed for incompetency or misconduct, revert to the grades in the corps from which they were promoted.

The annual rate of pay of the members of said corps shall be as follows: Superintendent, \$2,400; assistant superintendents and directors, \$1,800; assistant directors, \$1,500; chief nurses, \$360 in addition to the pay of a nurse; nurses, \$720 for the first period of three years' service, \$780 for the second period of three years' service, \$840 for the third period of three years' service, \$900 for the fourth period of three years' service, and \$960 after twelve years' service in said corps (including in all cases time of service as contract nurse); reserve nurses, when upon active duty, will receive the same pay as nurses who have served in the corps for periods corresponding to the full period of their active service; and all members of said corps, in addition to the foregoing, the sum of \$10 per month when serving beyond the continental limits of the United States (excepting Porto Rico and Hawaii).

Members of said Nurse Corps shall be entitled to cumulative leave of absence with pay at the rate of thirty days for each calendar year of service in said corps, not exceeding, however, one hundred and twenty days at one time, and in addition thereto sick leave not exceeding thirty days in any one calendar year in cases of illness or injury incurred in the line of duty.

Members of said Nurse Corps shall receive transportation and necessary expenses when traveling under orders, and such allowances of quarters and subsistence and, during illness, such medical care as may be prescribed in regulations by the Secretary of War; and when at places where no public quarters are available, commutation in lieu thereof, and of heat and light therefor at such rates and upon such conditions as are now or shall hereafter be provided by law. (R. S. §§ 1238, 1239; Acts Feb. 2, 1901, c. 192, § 19, 31 Stat. 753; March 23, 1910, c. 115, 36 Stat. 249; March 4, 1912, c. 50, 37 Stat. 72; Aug. 24, 1912, c. 391, § 1, 37 Stat. 575; July 9, 1918, c. 143, V, §§ 1-6, 40 Stat.; Feb. 28, 1919, c. 8.)

Note 1.—The amendment of 1919 consisted in the change from \$120 to \$360 in the annual pay of chief nurses, in addition to the pay of a nurse.

Note 2.—Section 7 of said statute of 1918 expressly repealed the prior laws cited; but the later Act Aug. 29, 1916, c. 418, § 1, 39 Stat. 626, left unrepealed, repeated the provisions of Act Aug. 24, 1912, c. 391, § 1, 37 Stat. 575, which were as follows: "The superintendent shall receive such allowances of quarters, subsistence and medical care during illness as may be prescribed in regulations by the Secretary of War."

§ 1514a. Relative rank of nurses.—Hereafter the members of the Army Nurse Corps shall have relative rank as follows: The superintendent shall have the relative rank of major; the assistant superintendents, directors and assistant directors, the relative rank of captain; chief nurses, the relative rank of first lieutenant; head nurses and nurses, the relative rank of second lieutenant; and as regards medical and sanitary matters and all other work within the line of their professional duties shall have authority in and about military hospitals next after the officers of the Medical Department. The Secretary of War shall make the necessary regulations prescribing the rights and privileges conferred by such relative rank. (Act June 3, 1916, c. 134, § 10, 39 Stat. 171, as amended by Act June 4, 1920, c. 227, § 10.)

§ 1515. The third paragraph and probably the remainder of this section are superseded by § 1506.

§ 1515a. Sale of surplus dental outfits.—The Secretary of War is hereby authorized and directed to sell at public or private sale, under such rules and regulations as he may prescribe, all dental outfits in excess of the needs of the Government, preferentially to persons who served in the Army, Navy, Marine Corps, Coast Guard, or the American Red Cross of the United States during the recent war and who are at the time of such sale licensed to practice dentistry; but not more than one set of dental supplies shall be sold at private sale to any one person. (Res. No. 38, April 17, 1920, c. 150.)

§ 1520. Detail of officer to Red Cross.—Hereafter the Secretary of War is hereby authorized to detail an officer of the Medical Corps to take charge of the first-aid department of the American Red Cross.

The President is authorized to detail not more than five officers of the Medical Department for duty with the military relief division of the American National Red Cross. (Acts March 3, 1911, c. 209, 36 Stat. 1041; June 3, 1916, c. 134, §§ 10, 127a, 39 Stat. 171; June 4, 1920, c. 227, § 51.)

Note.—The second paragraph of this section is superseded by § 1506.

§ 1521. Corps of Engineers.

Note.—Acts March 1, 1919, c. 86, § 1, and July 11, 1919, c. 8, § 1, authorized the employment in the office of the Chief of Engineers, of such skilled draftsmen, civil engineers, and such other services as the Secretary of War may deem necessary to carry into effect the various appropriations for rivers and harbors, fortifications, and surveys and preparation for and the consideration of river and harbor estimates and bills, to be paid from such appropriations; and said Act required annual report to Congress of such employment by the Secretary of War.

§ 1522. Composition of Corps of Engineers.—The Corps of Engineers shall consist of one Chief of Engineers with the rank of major general, one assistant with the rank of brigadier general, six hundred officers in grades from colonel to second lieutenant, inclusive, and twelve thousand enlisted men, such part of whom as the President may direct being formed into tactical units organized as he may prescribe. (R. S. § 1156; Acts June 3, 1916, c. 134, §§ 11, 24, 39 Stat. 173, 183; July 9, 1918, c. 143, I, 40 Stat. 867; June 4, 1920, c. 227, § 11.)

§ 1526. Ordnance Department.—The Ordnance Department shall consist of one Chief of Ordnance with the rank of major general, two assistants with the rank of brigadier general, three hundred and fifty officers in grades from colonel to second lieutenant, inclusive, and four thousand five hundred enlisted men. (R. S. §§ 1094, 1110, 1162; Acts June 23, 1874, c. 458, § 5, 18 Stat. 245; March 2, 1899, c. 352, § 7, 30 Stat. 979; Feb. 2, 1901, c. 192, § 23, 31 Stat. 754; June 25, 1906, c. 3526, § 1, 34 Stat. 459; June 8, 1916, c. 134, § 12, 39 Stat. 174; Jan. 24, 1920, c. 53; June 4, 1920, c. 227, § 12.)

Note.—Act July 7, 1898, c. 582, 30 Stat. 720, provided: "A chief ordnance officer may be assigned to the staff of an army or a corps commander, and while so assigned shall have the rank, pay, and allowances of a lieutenant-colonel. A chief ordnance officer may be assigned to the staff of a division commander, and while so assigned shall have the rank, pay, and allowances of a major."

§ 1530a. Chemical Warfare Service.—There is hereby created a Chemical Warfare Service. The Chemical Warfare Service shall consist of one Chief of the Chemical Warfare Service with the rank of brigadier general, one hundred officers in grades from colonel to second lieutenant, inclusive, and one thousand two hundred enlisted men. The Chief of the Chemical Warfare Service under authority of the Secretary of War shall be charged with the investigation, development, manufacture, or procurement and supply to the Army of all smoke and incendiary materials, all toxic gases and all gas-defense appliances; the research, design, and experimentation connected with chemical warfare and its material; and chemical projectile filling plants and proving grounds; the supervision of the training of the Army in chemical warfare, both offensive and defensive, including the necessary schools of instruction; the organization, equipment, training, and operation of special gas troops, and such other duties as the President may from time to time prescribe (Act June 3, 1916, c. 134, § 12a, as added by Act June 4, 1920, c. 227, § 12.)

§ 1531. Signal Corps.—The Signal Corps shall consist of one Chief Signal Officer with the rank of major general, three hundred officers in grades from colonel to second lieutenant, inclusive, and five thousand enlisted men, such part of whom as the President may direct being formed into tactical units as he may prescribe. (R. S. §§ 1094-1197; Acts June 16, 1880, c. 235, 21 Stat. 267; Aug. 7, 1882, c. 433, 22 Stat. 318; March 3, 1885, c. 339, 23 Stat. 357; March 3, 1885, c. 360, 23 Stat. 505; Aug. 30, 1890, c. 837, 26 Stat. 400; March 2, 1903, c. 975, 32 Stat. 932; April 23, 1904, c. 1485, 33 Stat. 261; June 3, 1916, c. 134, § 13, 39 Stat. 174; June 4, 1920, c. 227, § 13.)

§§ 1532-1538. See §§ 1531, 1538a.

§ 1538a. Air Service.—There is hereby created an Air Service. The Air Service shall consist of one Chief of the Air Service with the rank of major general, one assistant with the rank of brigadier general, one thousand five hundred and fourteen officers in grades from colonel to second lieutenant, inclusive, and sixteen thousand enlisted men, including not to exceed two thousand five hundred flying cadets, such part of whom as the President may direct being formed into tactical units, organized as he may prescribe: Provided, That not to exceed 10 per centum of the officers in each grade below that of brigadier general who fail to qualify as aircraft pilots or as observers within one year after the date of detail or assignment shall be permitted to remain detailed or assigned to the Air Service. Flying units shall in all cases be commanded by flying officers. Officers and enlisted men of the Army shall receive an increase of 50 per centum of their pay while on duty requiring them to participate regularly and frequently in aerial flights; and hereafter no person shall receive additional pay for aviation duty except as prescribed in this section: Provided, That nothing in this Act shall be construed as amending existing provisions of law relating to flying cadets. (Act June 3, 1916, c. 134, § 13a, as added by Act June 4, 1920, c. 227, § 13.)

§ 1538b. Control of aerial operations.—Hereafter the Army Air Service shall control all aerial operations from land bases, and Naval Aviation shall have control of all aerial operations attached to a fleet, including shore stations whose maintenance is necessary for operation connected with the fleet, for construction and experimentation and for the training of personnel.* (Act June 5, 1920, c. 240.)

§ 1538c. Claims for damages from aircraft.—Claims not exceeding \$250 in amount for damages to persons and private property resulting from the operation of aircraft at home and abroad, may be settled out of the funds appropriated hereunder, when each claim is substantiated by a survey report of a board of officers appointed by the commanding officer of the nearest aviation post, and approved by the Director of Air Service: Provided further, That claims so settled and paid from the sum hereby appropriated shall not exceed in the aggregate the sum of \$150,000. (Act June 5, 1920, c. 240.)

§ 1538d. Courses of instruction in aviation; enlistment and pay of aviation students and flying cadets.—The Secretary of War is hereby authorized and directed to establish and maintain at one or more established flying schools courses of instruction for aviation students.

Aviation students shall be enlisted in or appointed to the grade of flying cadet, Air Service, which grade is hereby established: Provided, That the total number of flying cadets shall not at any time exceed one thousand three hundred. The base pay of a flying cadet shall be \$75 per month, including extra pay for flying risk as provided by law. The ration allowance of a flying cadet shall not exceed \$1 per day, and his other allowances shall be those of a private, first class, Air Service.

Upon completion of a course prescribed for flying cadets, each flying cadet, if he so desire, may be discharged and commissioned as a second lieutenant in the Officers' Reserve Corps: Provided, That the Secretary of War is authorized to discharge at any time any flying cadet whose discharge shall have been recommended by a board of not less than three officers. (Act July 11, 1919, c. 8, § 1.)

§ 1540. Officers' Reserve Corps.—For the purpose of providing a reserve of officers available for military service when needed there shall be organized an Officers' Reserve Corps consisting of general officers, of sections corresponding to the various branches of the Regular Army, and of such additional sections as the President may direct. The grades in each section and the number in each grade shall be as the President may prescribe. Reserve officers shall be appointed and commissioned by the President alone, except general officers, who shall be appointed by and with the advice and consent of the Senate. Appointment in every case shall be for a period of five years, but an appointment in force at the outbreak of war, or made in time of war, shall continue in force until six months after its termination. Any reserve officer may be discharged at any time in the discretion of the President. A reserve officer appointed during the existence of a state

of war shall be entitled to discharge within six months after its termination if he makes application therefor. In time of peace, a reserve officer must, at the time of his appointment, be a citizen of the United States or of the Philippine Islands, between the ages of twenty-one and sixty years. Any person who has been an officer of the Army at any time between April 6, 1917, and June 30, 1919, or an officer of the Regular Army at any time, may be appointed as a reserve officer in the highest grade which he held in the Army or any lower grade; any person now serving as an officer of the National Guard may be appointed as a reserve officer in his present or any lower grade; no other person shall in time of peace be originally time of peace appointments in the Infantry, Cavalry, Field Artillery, Coast Artillery, or Air Service in a grade above that of second lieutenant. In time of peace appointments in the Infantry Cavalry, Field Artillery, Coast Artillery, and Air Service shall be limited to former officers of the Army, graduates of the Reserve Officers' Training Corps, as provided in section 47b hereof, warrant officers and enlisted men of the Regular Army, National Guard, and Enlisted Reserve Corps, and persons who served in the Army at some time between April 6, 1917, and November 11, 1918. Promotions and transfers shall be made under such rules as may be prescribed by the President, and shall be based so far as practicable upon recommendations made in the established chain of command, but no reserve officer shall be promoted to any grade in time of peace until he has held a commission for at least one year in the next lower grade. So far as practicable, reserve officers shall be assigned to units in the locality of their places of residence. Nothing in this Act shall operate to deprive a reserve officer of the reserve commission he now holds. Any reserve officer may hold a commission in the National Guard without thereby vacating his reserve commission. (Acts April 23, 1908, c. 150, §§ 7-9, 35 Stat. 68; June 3, 1916, c. 134, § 37, 39 Stat. 189; June 4, 1920, c. 227, § 32.)

Note.—See § 1542, below, and also § 1548 for § 47b so referred to.

§ 1541. Reserve officers on active duty.—To the extent provided for from time to time by appropriations for this specific purpose, the President may order reserve officers to active duty at any time and for any period; but except in time of a national emergency expressly declared by Congress, no reserve officer shall be employed on active duty for more than fifteen days in any calendar year without his own consent. A reserve officer shall not be entitled to pay and allowances except when on active duty. When on active duty he shall receive the same pay and allowances as an officer of the Regular Army of the same grade and length of active service, and mileage from his home to his first station and from his last station to his home, but shall not be entitled to retirement or retired pay. (Acts June 3, 1916, §§ 37a, 38, 39 Stat. 190; June 4, 1920, c. 227, §§ 31, 32.)

Note.—Act July 11, 1919, c. 8, § 1, provides that "officers of the emergency Army appointed to the Officers' Reserve Corps may be appointed therein to the grade held by them in the emergency Army or next higher grade, as the Secretary of War may direct."

§ 1542. Appointment in Officers' Reserve Corps of former Army officers.—Any former officer of the Regular Army, the Volunteer Army, the Organized Militia, or the National Guard, under the age of sixty-four years and who has resigned or been honorably discharged from the service after a total commissioned service of not less than three years in either the Regular Army, the Volunteer Army, the Organized Militia, or the National Guard, may, upon such examination and within such age limits as may be prescribed by the President, be appointed and commissioned, in the discretion of the President, in any appropriate arm, staff corps, department or section of the Officers' Reserve Corps, with rank not more than one grade higher than any previously held by the officer in either of said forces, but in no case above that of lieutenant colonel. (Act May 12, 1917, c. 12, 40 Stat. 73.)

Note.—Act June 3, 1916, c. 134, § 39, formerly embodied in this section, was repealed by Act June 4, 1920, c. 227, § 31. See § 1540, above.

§ 1544. Reserve Officers' Training Corps; organization.—The President is hereby authorized to establish and maintain in civil educational institutions a Reserve Officers' Training Corps, one or more units in number, which shall consist of a senior division organized at universities and colleges granting degrees, including State universities and those State institutions

that are required to provide instruction in military tactics under the Act of Congress of July 2, 1862, donating lands for the establishment of colleges where the leading object shall be practical instruction in agriculture and the mechanic arts, including military tactics, and at those essentially military schools not conferring academic degrees, specially designated by the Secretary of War as qualified, and a junior division organized at all other public and private educational institutions, and each division shall consist of units of the several arms, corps, or services in such number and such strength as the President may prescribe: Provided, That no such unit shall be established or maintained at any institution until an officer of the Regular Army shall have been detailed as professor of military science and tactics, nor until such institution shall maintain under military instruction at least one hundred physically fit male students, except that in the case of units other than infantry, cavalry or artillery, the minimum number shall be fifty: Provided further, That except at State institutions described in this section, no unit shall be established or maintained in an educational institution until the authorities of the same agree to establish and maintain a two years' elective or compulsory course of military training as a minimum for its physically fit male students which course, when entered upon by any student shall, as regards such student, be a prerequisite for graduation unless he is relieved of this obligation by regulations to be prescribed by the Secretary of War.

§ 1544a. Reserve Officers' Training Corps courses.—The Secretary of War is hereby authorized to prescribe standard courses of theoretical and practical military training for units of the Reserve Officers' Training Corps, and no unit of such corps shall be organized or maintained at any educational institution the authorities of which fail or neglect to adopt into their curriculum the prescribed courses of military training or to devote at least an average of three hours per week per academic year to such military training, except as provided in section 47c of this Act.

§ 1544b. Personnel for duty with Reserve Officers' Training Corps.—The President is hereby authorized to detail such numbers of officers, warrant officers, and enlisted men of the Regular Army, either active or retired, as may be necessary for duty as professors of military science and tactics, assistant professors of military science and tactics, and military instructors at educational institutions where one or more units of the Reserve Officers' Training Corps are maintained. In time of peace retired officers, retired warrant officers, or retired enlisted men shall not be detailed under the provisions of this section without their consent, and no officer on the active list shall be detailed for recruiting service or for duty at a school or college, not including schools of the service, where officers on the retired list can be secured who are competent for such duty. Hereafter retired officers below the grade of brigadier general and retired warrant officers and enlisted men shall, when on active duty, receive full pay and allowances.

Eligibility to the membership in the Reserve Officers' Training Corps shall be limited to students of institutions in which units of such corps may be established who are citizens of the United States, who are not less than fourteen years of age, and whose bodily condition indicates that they are physically fit to perform military duty, or will be so upon arriving at military age. (Acts June 3, 1916, c. 134, §§ 40-46, 39 Stat. 191; June 4, 1920, c. 227, § 33.)

§ 1545. Superseded and repealed by Act June 4, 1920, c. 227, § 33. See. §§ 1544, 1546-1549.

§ 1546. Supplies for Reserve Officers' Training Corps.—The Secretary of War, under such regulations as he may prescribe, is hereby authorized to issue to institutions at which one or more units of the Reserve Officers' Training Corps are maintained such public animals, transportation, arms, ammunition, supplies, tentage, equipment, and uniforms belonging to the United States as he may deem necessary, and to forage at the expense of the United States public animals so issued, to pay commutation in lieu of uniforms at a rate to be fixed annually by the Secretary of War, and to authorize such expenditures from proper Army appropriations as he may deem necessary for the efficient maintenance of the Reserve Officers' Train-

ing Corps. He shall require from each institution to which property of the United States is issued a bond in the value of the property issued for the care and safe-keeping thereof, except for uniforms, expendable articles, and supplies expended in operation, maintenance, and instruction, and for its return when required.

The Secretary of War may, in his discretion and under such regulations as he may prescribe, permit such institutions to furnish their own uniforms and receive as commutation therefor the sum allotted by the Secretary of War to such institutions for uniforms. (First paragraph, Acts June 3, 1916, c. 134, § 47, 39 Stat. 192; June 4, 1920, c. 227, § 34; second paragraph, Act of May 12, 1917, c. 12, 40 Stat. 71.)

§ 1547. Reserve Officers' Training Corps camps.—The Secretary of War is hereby authorized to maintain camps for the further practical instruction of the members of the Reserve Officers' Training Corps, no such camp to be maintained for a longer period than six weeks in any one year, except in time of actual or threatened hostilities; to transport members of such corps to and from such camps at the expense of the United States so far as appropriations will permit, to subsist them at the expense of the United States while traveling to and from such camps and while remaining therein so far as appropriations will permit, or in lieu of transporting them to and from such camps and subsisting them while en route, to pay them travel allowances at the rate of 5 cents per mile for the distance by the shortest usually traveled route from the places from which they are authorized to proceed to the camp and for the return travel thereto, and to make payment of travel allowances for the return journey in advance of the actual performance of the same, and to admission to military hospitals at such camps, and to furnish medical attendance and supplies; to use the troops of the Regular Army, and such Government property as he may deem necessary, for the military training of the members of such corps while in attendance at such camps; and to prescribe regulations for the government of such camps. (Acts June 3, 1916, c. 134, §§ 47a, 48, 39 Stat. 193; June 4, 1920, c. 227, § 34.)

§ 1547a. Travel pay of members of Reserve Officers' Training Corps; uniforms.—So much of section 48 of the Act of June 3, 1916, entitled "An Act for making further and more effectual provisions for the national defense, and for other purposes," as relates to the transportation of members of the Reserve Officers' Training Corps attending summer camps be, and the same is hereby amended so as to provide that such members of the Reserve Officers' Training Corps shall be paid as traveling allowances 5 cents per mile for the distance by the shortest usually traveled route from the places from which they are authorized to proceed to the camp and for the return travel thereto; Provided further, That the payment of travel pay for the return journey may be made in advance of the actual performance of travel: Provided further, That the Secretary of War may, in his discretion and under such regulations as he may prescribe, permit such institutions to furnish their own uniforms and receive as commutation therefor the sum allotted by the Secretary of War to such institutions for uniforms. (Act June 5, 1920, c. 240.)

§ 1548. Appointment of graduates of Reserve Officers' Training Corps as reserve officers.—The President alone, under such regulations as he may prescribe, is hereby authorized to appoint as a reserve officer of the Army of the United States any graduate of the senior division of the Reserve Officers' Training Corps who shall have satisfactorily completed the further training provided for in section 47a of this Act, or any graduate of the junior division who shall have satisfactorily completed the courses of military training prescribed for the senior division and the further training provided for in section 47a of this Act, and shall have participated in such practical instruction subsequent to graduation as the Secretary of War shall prescribe, who shall have arrived at the age of twenty-one years and who shall agree, under oath in writing, to serve the United States in the capacity of a reserve officer of the Army of the United States during a period of at least five years from the date of his appointment as such reserve officer, unless sooner discharged by proper authority: Provided, That no reserve officer appointed pursuant to this Act shall be entitled to

retirement, or to retired pay, and shall be eligible for pension only for disability incurred in line of duty in active service or while serving with the Army pursuant to provisions of this Act. (Acts June 3, 1916, c. 134, §§ 47b, 49, 39 Stat. 193; June 4, 1920, c. 227, § 34.)

Note.—See § 1547, herein, for § 47a so referred to.

§ 1549. Pay and commutation of subsistence in Reserve Officers' Training Corps.—When any member of the senior division of the Reserve Officers' Training Corps has completed two academic years of service in that division, and has been selected for advanced training by the president of the institution and by the professor of military science and tactics, and has agreed in writing to continue in the Reserve Officers' Training Corps for the remainder of his course at the institution, devoting five hours per week to the military training prescribed by the Secretary of War, and has agreed in writing to pursue the course in camp training prescribed by the Secretary of War, he may be furnished at the expense of the United States commutation of subsistence such rate, not exceeding the cost of the garrison ration prescribed for the Army, as may be fixed by the Secretary of War, during the remainder of his service in the Reserve Officers' Training Corps, not exceeding two years: Provided, That any medical, dental, or veterinary student may be admitted to a Medical, Dental, or Veterinary Corps unit of the Reserve Officers' Training Corps for a course of training at the rate of ninety hours of instruction per annum for the four collegiate years, and if at the end of two years of such training he has been selected by the professor of military science and tactics and the head of the institution for advanced training, and has agreed in writing to continue in the Reserve Officers' Training Corps for the remainder of his course at the institution, and has agreed in writing to pursue the course in camp training prescribed by the Secretary of War, he may be furnished, at the expense of the United States, with commutation of subsistence at such rate not exceeding the cost of the garrison ration prescribed for the Army, as may be fixed by the Secretary of War, during the remainder of his service in the Reserve Officers' Training Corps, not exceeding two years; Provided further, That any reserve officer who is also a medical, dental, or veterinary student may be admitted to such Medical, Dental, or Veterinary Corps unit for such training, under such rules and regulations as the Secretary of War may prescribe: Provided further, That members of the Reserve Officers' Training Corps, or other persons authorized by the Secretary of War to attend advanced course camps, shall be paid for attendance at such camps at the rate prescribed for soldiers of the seventh grade of the Regular Army. (Acts June 3, 1916, c. 134, §§ 47c, 50, 39 Stat. 193; June 4, 1920, c. 227, § 34.)

§§ 1550-1552. Superseded and repealed by Act June 4, 1920, c. 227, § 34. See §§ 1544-1549.

§ 1553. Chaplains.—There shall be one chaplain for every twelve hundred officers and enlisted men of the Regular Army, exclusive of the Philippine Scouts and the unassigned recruits, authorized from time to time in accordance with law and within the peace strength permitted by this Act. Chaplains shall hereafter have rank, pay, and allowances according to length of active commissioned service in the Army, or, since April 6, 1917, in the National Guard while in active service under a call by the President, as follows: Less than five years, first lieutenant; five to fourteen years, captain; fourteen to twenty years, major; over twenty years, lieutenant colonel. One chaplain, of rank not below that of major may be appointed by the President, by and with the advice and consent of the Senate, to be chief of chaplains. He shall serve as such for four years, and shall have the rank, pay, and allowances of colonel while so serving. His duties shall include investigation into the qualifications of candidates for appointment as chaplain, and general coordination and supervision of the work of chaplains. Of the vacancies existing on July 1, 1920, such number as the President may direct shall be filled by appointment on that date of persons under the age of fifty-eight years, other than chaplains of the Regular Army, who served as chaplains in the Army at some time between April 6, 1917, and the date of the passage of this Act. Such appointments may be made in grades above the lowest under the same restrictions as to age

and rank as are hereinafter prescribed for original appointments in other branches of the service, and in accordance with the recommendation of the board of officers provided for in section 24. For purposes of future promotion, persons so appointed shall be considered as having had, on the date of appointment, sufficient prior service to bring them to their respective grades under the rules of promotion established in this section. (R. S. §§ 1094, 1121; June 3, 1916, c. 134, § 15, 39 Stat. 176; June 4, 1920, c. 227, § 15.)

Note.—See this section in Barnes' Federal Code.

§ 1557. Superseded by § 1453.

§ 1559. Superseded by § 1453.

§ 1561. Repealed by Act June 4, 1920, c. 227, § 27.

§ 1562. **Term of enlistment; reenlistment; bonus.**—Hereafter original enlistments in the Regular Army shall be for a period of one or three years at the option of the soldier, and reenlistments shall be for a period of three years. Existing laws providing for the payment of three months' pay to certain soldiers upon reenlistment are hereby repealed, and hereafter an enlistment allowance equal to three times the monthly pay of a soldier of the seventh grade shall be paid to every soldier who enlists or reenlists for a period of three years, payment of the enlistment allowance for original enlistment to be deferred until honorable discharge. (First paragraph, R. S. § 1119; Act Aug. 1, 1894, c. 179, § 2, 28 Stat. 216; second paragraph, June 3, 1916, c. 134, § 27, 34, 39 Stat. 188; June 4, 1920, c. 227, §§ 27, 31; June 14, 1920, c. 286.)

§ 1565. **Discharge on account of dependent relatives.**—When by reason of death or disability of a member of the family of an enlisted man, occurring after his enlistment, members of his family become dependent upon him for care or support, he may, in the discretion of the Secretary of War, be discharged from the service of the United States. (Acts June 3, 1916, c. 134, § 29, 39 Stat. 187; June 4, 1920, c. 227, § 29.)

§ 1567. **Regular Army Reserve abolished.**—The Regular Army Reserve is hereby abolished, and all members thereof shall be discharged from the obligations under which they are now serving. (Acts June 3, 1916, c. 134, § 30, 39 Stat. 187; June 4, 1920, c. 227, § 30.)

§ 1568. Repealed by Act June 4, 1920, c. 227, § 31.

§ 1569. Repealed by Act June 4, 1920, c. 227, § 31.

§ 1570. **The Enlisted Reserve Corps.**—The Enlisted Reserve Corps shall consist of persons voluntarily enlisted therein. The period of enlistment shall be three years, except in the case of persons who served in the Army, Navy, or Marine Corps at some time between April 6, 1917, and November 11, 1918, who may be enlisted for one year periods and who, in time of peace shall be entitled to discharge within ninety days if they make application therefor. Enlistments shall be limited to persons eligible for enlistment in the Regular Army who have had such military or technical training as may be prescribed by regulations of the Secretary of War. All enlistments in force at the outbreak of war, or entered into during its continuation, whether in the Regular Army or the Enlisted Reserve Corps, shall continue in force until six months after its termination unless sooner terminated by the President.

The President may form any or all members of the Enlisted Reserve Corps into tactical organizations similar to those of the Regular Army, similarly armed, uniformed, and equipped, and composed so far as practicable of men residing in the same locality, may officer them by the assignment of reserve officers or officers of the Regular Army, active or retired, and may detail such personnel of the Army as may be necessary for the administration of such organizations and the care of Government property issued to them.

Members of the Enlisted Reserve Corps may be placed on active duty, as individuals or organizations, in the discretion of the President, but except in time of a national emergency expressly declared by Congress

no reservist shall be ordered to active duty in excess of the number permissible under appropriations made for this specific purpose, nor for a longer period than fifteen days in any one calendar year without his own consent. While on active duty they shall receive the same pay and allowances as other enlisted men of like grades and length of service. (Acts June 3, 1916, c. 134, §§ 55, 55a, 55b, 39 Stat. 195; July 9, 1918, c. 143, XVII, § 9, 40 Stat. 891; June 4, 1920, c. 227, § 35.)

§ 1573. Promotion list.—For the purpose of establishing a more uniform system for the promotion of officers, based on equity, merit, and the interests of the Army as a whole, the Secretary of War shall cause to be prepared a promotion list, on which shall be carried the names of all officers of the Regular Army and Philippine Scouts below the grade of colonel, except officers of the Medical Department, chaplains, professors, the military storekeeper and certain second lieutenants of the Quartermaster Corps herein-after specified. The names on the list shall be arranged, in general, so that the first name on the list shall be that of the officer having the longest commissioned service; the second name that of the officer having the next longest commissioned service, and so on. In computations for the purpose of determining the position of officers on the promotion list there shall be credited all active commissioned service in the Army performed while under appointment from the United States Government, whether in the Regular, provisional, or temporary forces, except service under a reserve commission while in attendance at a school or camp for the training of candidates for commission; also commissioned service in the National Guard while in active service since April 6, 1917, under a call by the President; and also commissioned service in the Marine Corps when detached for service with the Army by order of the President. In determining position on the promotion list, and relative rank, commissioned service in the Regular Army or the Philippine Scouts, if continuous to the present time, shall be counted as having begun on the date of original commission. The original promotion list shall be formed by a board of officers appointed by the Secretary of War, consisting of one colonel of each of six branches of the service in which officers are permanently commissioned under the terms of this Act, and one officer who, as a member of the personnel branch of the General Staff, has made a special study of merging the present promotion lists into a single list. The steps in the formation of the original promotion list shall be as follows:

First, officers below the grade of colonel in the Corps of Engineers, Signal Corps, Infantry, Cavalry, Field Artillery, Coast Artillery Corps, Porto Rico Regiment, and Philippine Scouts, who were originally appointed in the Regular Army or Philippine Scouts prior to April 6, 1917, shall be arranged without changing the present order of officers on the lineal list of their own branches, but otherwise as nearly as practicable according to length of commissioned service. The following shall be omitted:

(a) Officers who, as a result of voluntary transfer, occupy positions on the lineal list other than those they would have held if their original commissions had been in their present branches;

(b) Officers of other branches appointed in the Field Artillery or the Coast Artillery Corps to fill vacancies created by the Act approved January 25, 1907;

(c) Officers appointed in the Regular Army since January 1, 1903, while serving as officers of the Porto Rico Provisional Regiment of Infantry or Philippine Scouts;

(d) Former officers of the Regular Army or Philippine Scouts who have been reappointed in these forces and who are now below normally placed officers of less commissioned service than theirs.

Officers of classes (a), (b), and (c) shall be placed on the list in the positions they would have occupied if they had remained in their original branches of the service. Officers of class (d) shall be placed on the list in the position that would normally be occupied by an officer of continuous service equal to the total active commissioned service of such officers in the Army.

Second, officers of the Judge Advocate General's Department, Quartermaster Corps, and Ordnance Department shall be placed on the list according to length of commissioned service, except those second lieutenants of

the Quartermaster Corps who are found not qualified for promotion as provided in section 24b hereof.

Third, captains and lieutenants of the Regular Army and Philippine Scouts, originally appointed since April 6, 1917, shall be arranged among themselves according to commissioned service rendered prior to November 11, 1918, and shall be placed at the foot of the list as prepared to this point.

Fourth, persons to be appointed as captains or lieutenants under the provisions of section 24, hereof, shall be placed according to commissioned service rendered prior to November 11, 1918, among the officers referred to in the next preceding clause; and where such commissioned service is equal, officers now in the Regular Army shall precede persons to be appointed under the provisions of this Act, and the latter shall be arranged according to age.

Fifth, persons appointed as lieutenant colonels or majors under the provisions of section 24 hereof, shall be placed immediately below all officers of the Regular Army who, on July 1, 1920, are promoted to those grades respectively under the provisions of section 24 hereof: Provided, That the board charged with the preparation of the promotion list may in its discretion, assign to any such officer a position on the list higher than that to which he would otherwise be entitled, but not such as to place him above any officer of greater age, whose commissioned service commenced prior to April 6, 1917, and who would precede him on the list under the general provisions of this section.

Any former officer of the Regular Army and any retired officer who may hereafter be appointed to the active list in the manner provided by law shall be placed on the promotion list in accordance with his total active commissioned service; except that former officers appointed to field grades on July 1, 1920, under the provisions of section 24, may be placed as provided in the next preceding paragraph of this section. A reserve judge advocate appointed in the Regular Army shall be placed as provided in section 24c.

Other officers on original appointment shall be placed at the foot of the list. The place of any officer on the promotion list once established shall not thereafter be changed, except as the result of the sentence of a court-martial. (Acts Oct. 1, 1890, c. 1241, §§ 1-3, 26 Stat. 562; July 27, 1892, c. 269, §§ 1, 2, 27 Stat. 276; March 3 1911, c. 209, 36 Stat. 1058; June 3, 1916, c. 134, §§ 24, 24a, 25, 39 Stat. 183; Aug. 29, 1916, c. 418, § 1, 39 Stat. 623; June 4, 1920, c. 227, § 24.)

Note.—See §§ 1573, 1597, herein, for § 24, so referred to; see § 1574 for § 24b, so referred to; see § 1575 for § 24c, so referred to.

§ 1574. Classification of officers.—Immediately upon the passage of this Act, and in September of 1921 and every year thereafter, the President shall convene a board of not less than five general officers, which shall arrange all officers in two classes, namely: Class A, consisting of officers who should be retained in the service, and Class B, of officers who should not be retained in the service. Until otherwise classified, all officers shall be regarded as belonging to Class A, and shall be promoted according to the provisions of this Act to fill any vacancies which may occur prior to such final classification. No officer shall be finally classified in Class B until he shall have been given an opportunity to appear before a court of inquiry. In such court of inquiry he shall be furnished with a full copy of the official records upon which the proposed classification is based and shall be given an opportunity to present testimony in his own behalf. The record of such court of inquiry shall be forwarded to the final classification board for reconsideration of the case, and after such consideration the finding of said classification board shall be final and not subject to further revision except upon the order of the President. Whenever an officer is placed in Class B, a board of not less than three officers shall be convened to determine whether such classification is due to his neglect, misconduct or avoidable habits. If the finding is affirmative, he shall be discharged from the Army; if negative, he shall be placed on the unlimited retired list with pay at the rate of 2½ per centum of his active pay multiplied by the number of complete years of commissioned service, or service which under the provisions of this Act is counted as its equivalent, unless his total commissioned service or equivalent service shall be less than ten

years, in which case he shall be honorably discharged with one year's pay. The maximum retired pay of an officer retired under the provisions of this section prior to January 1, 1924, shall be 75 per centum of active pay, and of one retired on or after that date, 60 per centum. If an officer is thus retired before the completion of thirty years' commissioned service, he may be employed on such active duty as the Secretary of War considers him capable of performing until he has completed thirty years' commissioned service. The board convened upon the passage of this Act shall also report the names of those second lieutenants of the Quartermaster Corps who were commissioned under the provisions of section 9 of the Act of June 3, 1916, who are not qualified for further promotion. The officers so reported shall continue in the grade of second lieutenant for the remainder of their service and the others shall be placed upon the promotion list according to their commissioned service, as hereinbefore provided. (Act June 3, 1916, c. 134, § 24b, as added by Act June 4, 1920, c. 227, § 24.)

§ 1575. Promotion of officers.—Up to and including June 30, 1920, except as otherwise provided herein, promotions shall continue to be made in accordance with law existing prior to the passage of this Act, and on the basis of the number heretofore authorized for each grade and branch. On and after July 1, 1920, vacancies in grades below that of brigadier general shall be filled by the promotion of officers in the order in which they stand on the promotion list, without regard to the branches in which they are commissioned. Existing laws providing for the examination of officers for promotion are hereby repealed, except those relating to physical examination, which shall continue to be required for promotion to all grades below that of brigadier general, and except also those governing the examination of officers of the Medical, Dental, and Veterinary Corps. Officers of said three Corps shall be examined in accordance with laws governing examination of officers of the Medical Corps, second lieutenants of the Veterinary Corps being subject to the same provisions as first lieutenants. (Act June 3, 1916, c. 134, § 24c, as added by Act June 4, 1920, c. 227, § 24.)

§ 1576. Transfer of officers.—Upon his own application any officer may be transferred to another branch without loss of rank or change of place on the promotion list. (Acts June 3, 1916, c. 134, §§ 24d, 25, 39 Stat. 183; June 4, 1920, c. 227, § 24.)

1576a. Appointment of officers.—Except as otherwise herein provided, appointments shall be made in the grade of second lieutenant, first, from graduates of the United States Military Academy; second, from warrant officers and enlisted men of the Regular Army between the ages of twenty-one and thirty years, who have had at least two years' service; and, third, from reserve officers, and from officers, warrant officers and enlisted men of the National Guard, members of the Enlisted Reserve Corps and graduates of technical institutions approved by the Secretary of War, all between the ages of twenty-one and thirty years. Any vacancy in the grade of captain in the Judge Advocate General's Department, not filled by transfer or detail from another branch, may, in the discretion of the President, be filled by appointment from reserve judge advocates between the ages of thirty and thirty-six years, and such appointee shall be placed upon the promotion list immediately below the junior captain on said list. Appointments in the Medical and Dental Corps shall be made in the grade of first lieutenant from reserve medical and dental officers, respectively, between the ages of twenty-three and thirty-two years; in the Veterinary Corps in the grade of second lieutenant from reserve veterinary officers between the ages of twenty-one and thirty years; and in the Medical Administrative Corps in the grade of second lieutenant from enlisted men of the Medical Department between the ages of twenty-one and thirty-two years, who have had at least two years' service. To be eligible for appointment in the Dental Corps, a candidate must be a graduate of a recognized dental college, and have been engaged in the practice of his profession for at least two years subsequent to graduation. Appointments as chaplains shall be made from among persons duly accredited by some religious denomination or organization, and of good standing therein, between the ages of twenty-three and forty-five years. Former officers of the Regular Army and retired officers

may be reappointed to the active list, if found competent for active duty, and shall be commissioned in the grades determined by the places assigned to them on the promotion list under the provisions of section 1573 hereof. (Act June 3, 1916, c. 134, § 24e, as added by Act June 4, 1920, c. 227, § 24.)

§ 1578. Computation of time of service of officers; order in lineal list.—The general officers of the line who are appointed as such pursuant to the Act of March fourth, nineteen hundred and fifteen, shall take rank in their present grades over all officers hereafter appointed to like grades. (Acts Aug. 29, 1916, c. 418, § 1, 39 Stat. 623.)

§ 1589. Repealed by Act June 4, 1920, c. 227, § 50.

§ 1595a. Advanced rank and increased pay; officers carried as additional numbers.—Hereafter no detail, rating or assignment of an officer shall carry advanced rank, except as otherwise specifically provided herein: Provided, That in lieu of the 50 per centum increase of pay provided for in this Act any officer or enlisted man upon whom the rating of junior military aviator, or military aviator, has heretofore been conferred for having specially distinguished himself in time of war in active operations against the enemy, shall, while on duty which requires him to participate regularly and frequently in aerial flights, continue to have the rank, pay, and allowances and additional pay now provided by the Act of June 3, 1916, and the Act of July 24, 1917.

Officers now carried as additional numbers shall be included in the numbers provided for by this Act, and, after June 30, 1920, shall no longer be additional, and any officer hereafter appointed, under the provisions of law, to a grade in which no vacancy exists, shall be an additional number in that grade until absorbed, and no longer. (Act June 3, 1916, c. 134, § 127a, as added by Act June 4, 1920, c. 227, § 51.)

§ 1595b. Retention of emergency officers.—The President is authorized to retain temporarily in service, under their present commissions, such emergency officers as he may deem necessary, but the total number so remaining in service, other than those undergoing treatment for physical reconstruction, shall not at any time exceed the total number of vacancies then existing in the Regular Army. Any such officer may be discharged when his services are no longer required, and all such officers shall be discharged not later than December 31, 1920. All officers of the Regular Army holding commissions granted for the period of the existing emergency, in whatever grade, shall be discharged therefrom not later than June 30, 1920. The President is authorized and directed to retain in service disabled emergency officers until their treatment for physical reconstruction has reach a point where they will not be further benefited by retention in a military hospital or in the military service. (Act June 3, 1916, c. 134, § 127a, as added by Act June 4, 1920, c. 227, § 51.)

§ 1595c. Temporary appointment of officers.—Whenever, prior to December 31, 1920, any person shall be nominated to the Senate for appointment to fill any office in the Regular Army provided for by this Act, the President alone is authorized to appoint such person temporarily in the United States Army in the grade pertaining to such Regular Army office, to have rank and pay from the same dates as if such appointment were in the Regular Army. Such temporary appointments shall terminate upon acceptance, after confirmation, of the corresponding office in the Regular Army, or on March 4, 1921, if then still unconfirmed. If any officer of the Regular Army is retired while holding a temporary appointment made under the provisions of this paragraph, he shall have the rank of such temporary grade, and his retired pay shall be computed upon the pay of that grade. (Act June 3, 1910, c. 134, § 127a, as added by Act June 4, 1920, c. 227, § 51.)

§ 1595d. Repeal of laws.—All laws and parts of laws in so far as they are inconsistent with this Act are hereby repealed. (Act June 3, 1916, c. 134, § 127a, as added by Act June 4, 1920, c. 227, § 51.)

§ 1596. Provisional appointments.—All laws providing that certain appointments of officers shall be provisional for a period of time are hereby repealed. (Acts June 3, 1916, c. 134, § 23, 39 Stat. 181; July 9, 1918, c. 143, I. 40 Stat. 851; June 4, 1920, c. 227, § 23.)

§ 1597. Filling of vacancies.—Not less than one-half of the total number of vacancies caused by this Act, exclusive of those in the Medical Department and among chaplains, shall be filled by the appointment, to date from July 1, 1920, and subject to such examination as the President may prescribe, of persons other than officers of the Regular Army who served as officers of the United States Army at any time between April 6, 1917, and the date of the passage of this Act. A suitable number of such officers shall be appointed in each of the grades below that of brigadier general, according to their qualifications for such grade as may be determined by the board of general officers provided for in this section. No such person above the age of fifty years shall be appointed in a combatant branch, or above the age of fifty-eight in a noncombatant branch. No such person below the age of forty-eight years shall be appointed in the grade of colonel, or below the age of forty-five years in the grade of lieutenant colonel, or below the age of thirty-six years in the grade of major. Not less than three such persons shall be appointed to the grade of colonel in the Judge Advocate General's Department, and not less than eight to the grade of lieutenant colonel in the Judge Advocate General's Department, provided a sufficient number of applicants for such appointments are legally eligible and are found by the board provided for in this section to be properly qualified. Any person originally appointed under the provisions of this Act at an age greater than forty-five years shall, when retired, receive retired pay at the rate of 4 per centum of active pay for each complete year of commissioned service in the United States Army, the total to be not more than 75 per centum. Vacancies remaining in grades above the lowest which are not filled by such appointments shall be filled by promotion to date from July 1, 1920, in accordance with the provisions of § 1576a hereof. The selection of officers to be appointed under the provisions of this section, under such rules and regulations as may be approved by the Secretary of War, shall be made by a board consisting of the General of the Army, three bureau chiefs and three general officers of the line, to be appointed by the Secretary of War: Provided, That no officer shall be appointed in any branch of the service under the provisions of this section except with the approval of the chief of such branch or officer acting as such. (Acts March 3, 1911, c. 209, 36 Stat. 1045; June 3, 1916, c. 134, § 24, 39 Stat. 182; May 12, 1917, c. 12, 40 Stat 73; July 9, 1918, c. 143, XVII, § 3, 40 Stat. 890; June 4, 1920, c. 227, § 24.)

§ 1598. Repealed by Act June 4, 1920, c. 227, § 24. See § 1597 herein.

§ 1599a. Service considered in determining rank and increase of pay.—In determining relative rank and increase of pay for length of service, and, in the case of officers of the Regular Army, in determining rights of retirement, active duty performed while under appointment from the United States Government, whether in the Regular, provisional, or temporary forces, shall be credited to the same extent as service under a Regular Army commission. (Act June 3, 1916, c. 134, § 127a, as added by Act June 4, 1920, c. 227, § 51.)

§ 1599b. Appointment to higher rank in time of war.—In time of war any officer of the Regular Army may be appointed to higher temporary rank without vacating his permanent commission, such appointments in grades below that of brigadier general being made by the President alone, but all other appointments of officers in time of war shall be in the Officers' Reserve Corps. (Act June 3, 1916, c. 134, § 127a, as added by Act June 4, 1920, c. 227, § 51.)

§ 1599c. Date of rank; precedence.—Unless special assignment is made by the President under the provisions of the one hundred and nineteenth article of war all officers in the active service of the United States in any grade shall take rank according to date, which, in the case of an officer of the Regular Army, is that stated in his commission or letter of appointment, and, in the case of a reserve officer or an officer of the National Guard called into the service of the United States, shall precede that on which he is placed on active duty by a period equal to the total length of active service which he may have performed in the grade in which called or any higher grade. When dates of rank are the same, precedence

shall be determined by length of active commissioned service in the Army. When length of such service is the same, officers of the Regular Army shall take rank among themselves according to their places on the promotion list, preceding reserve and National Guard officers of the same date of rank and length of service, who shall take rank among themselves according to age. (Act June 3, 1916, c. 134, § 127a, as added by Act June 4, 1920, c. 227, § 51.)

§ 1600. Superseded and repealed by Act June 4, 1920, c. 227, § 34. See §§ 1544-1552.

§ 1613. Medals of honor.

Note.—Act Jan. 24, 1920, c. 55, provides that "no more than one medal of honor or one distinguished-service cross or one distinguished-service medal shall be issued to any one person; but for each succeeding deed or act sufficient to justify the award of a medal of honor or a distinguished-service cross or a distinguished-service medal, respectively, the President may award a suitable bar or other suitable device, to be worn as he shall direct. And for each citation of an officer or enlisted men for gallantry in action, published in orders issued from the headquarters of a force commanded by, or which is the appropriate command of, a general officer, not warranting the award of a medal of honor or distinguished-service cross, he shall be permitted to wear, as the President shall direct, a silver star three-sixteenths of an inch in diameter."

§ 1613a. Mexican border medal.—That the Mexican border medal and ribbon issued to National Guard officers and enlisted men under the provisions of the Act entitled "An Act making appropriations for the support of the Army for the fiscal year ending June 30, 1919," approved July 9, 1918, shall be issued to National Guard officers and enlisted men who at the same time served as such in the field under the call of the National Guard to such Mexican border service but were stationed for service at points other than on the Mexican border: Provided further, That such medals shall not be issued to men who have subsequent to such service been dishonorably discharged from the service or deserted. (Act June 5, 1920, c. 240.)

§ 1620a. Protection of uniform.

Note.—Act June 4, 1920, c. 228, § 8, provides that this section "shall hereafter be in full force and effect as originally enacted, notwithstanding anything contained in the Act entitled 'An Act permitting any person who has served in the United States Army, Navy, or Marine Corps in the present war to retain his uniform and personal equipment and to wear the same under certain conditions,' approved February 28, 1918: Provided, That the words 'or the Secretary of the Navy' shall be inserted immediately after the words 'the Secretary of War' wherever those words appear in section 125 of the Act approved June 3, 1916, hereinbefore referred to."

§ 1636. Articles of equipment for Red Cross.

Note.—Act July 11, 1919, c. 8, § 1, provides: "The Secretary of War is hereby authorized to place at the disposal of the American Red Cross, such medical and surgical supplies, and supplementary and dietary foodstuffs used in the treatment of the sick and injured now in Europe and designed for but which are not now essential to the needs of the American Expeditionary Forces, or needed for use in military hospitals in the United States, or as military or hospital stores for the Army of the United States, to be used by said American Red Cross as it shall determine, to relieve and supply the pressing needs of the peoples of countries involved in the late war. The Secretary of War shall prescribe regulations and conditions for the selection and delivery of said supplies and foodstuffs to the American Red Cross for the purposes aforesaid."

§ 1640a. Advances to disbursing officers.—That the Secretary of War be, and he hereby is, authorized to issue his requisitions for advances to disbursing officers and agents of the Army, under an "Army account of advances," not to exceed the total appropriation for the Army, the amount so advanced to be exclusively used to pay, upon proper vouchers, obligations, lawfully payable under the respective appropriations.

That the amount so advanced be charged to the proper appropriations and returned to "Army account of advances" by pay and counterwarrant. The said charge, however, to particular appropriations shall be limited to the amount appropriated to each,

The Auditor for the War Department shall declare the sums due from the several special appropriations upon complete vouchers, as heretofore, according to law; and he shall adjust the said liabilities with the "Army account of advances."

The balances of existing Army appropriations now available for withdrawal from the Treasury, together with any unexpended balances now charged to disbursing officers or agents of the Army which, under existing law, are available for disbursement, shall at such time as may be designated by the Secretary of War, be transferred on the books of the Treasury Department to "Army account of advances" and shall be disbursed and accounted for as such. (Act June 5, 1920, c. 240.)

§ 1648a. Civilian passengers and commercial cargo.—That hereafter, when, in the opinion of the Secretary of War, accommodations are available, transportation on Army transports may be provided for members and employees of the Porto Rican Government and their families without expense to the United States: Provided further, That in the joint discretion of the Secretary of War and chairman of the Shipping Board, and when space is available, civilian passengers and shipments of commercial cargo may be transported on Army transports in the trans-Atlantic service, at such times as space is not available on commercial lines, at rates not less than those charged by commercial steamship companies, between the same ports, for the same class of accommodations, the receipts from which shall be covered into the Treasury of the United States to the credit of miscellaneous receipts. (Act June 5, 1920, c. 240.)

§ 1658. Officers' quarters.

Note.—Act March 3, 1919, c. 99, § 1, making an appropriation of \$225,000 for construction of barracks and quarters for the seacoast artillery in the Hawaiian Islands, and for coast artillery troops at Fort Sherman, provides that no part of this sum shall be expended for the construction of officers' quarters to cost in excess of the limits established by this section.

§ 1663. Buildings for Red Cross.—Authority is hereby given to the Secretary of War to grant permission, by revocable license, to the American National Red Cross to erect and maintain on any military reservations within the jurisdiction of the United States buildings suitable for the storage of supplies, or to occupy for that purpose buildings erected by the United States, under such regulations as the Secretary of War may prescribe, such supplies to be available for the aid of the civilian population in case of serious national disaster. (Acts June 3, 1916, c. 134, §§ 10, 127a, 39 Stat. 173; June 4, 1920, c. 227, §§ 10, 51.)

§ 1678. Detached officers and enlisted men.—All officers and enlisted men authorized by law and not assigned to duty with any branch or bureau herein provided for shall be carried on the Detached Officers' List and Detached Enlisted Men's List, respectively. (Acts June 3, 1916, c. 134, § 25, 39 Stat. 183; Aug. 29, 1916, c. 418, § 1, 39 Stat. 623; May 12, 1917, c. 12, 40 Stat. 43; June 4, 1920, c. 227, § 25.)

§ 1678a. Service of detached officers in war with Germany.—After the termination of the emergency incident to the war with Germany and Austria-Hungary, in the construction of any law relating to detached service of the officers of the Regular Army, all service performed by such officers during the said emergency shall be regarded as service with troops or organizations thereof. (Act Jan. 17, 1920, c. 48.)

§ 1679. Superseded by § 1486.

§ 1690. Detachments at service schools.

Note.—Act July 11, 1919, c. 8, § 1, provides that "not exceeding \$300 per month may be used for the payment of \$100 per month to a translator at the Army Service Schools, Fort Leavenworth, Kansas, \$100 per month to a translator at the School of Fire for Field Artillery, and \$100 per month to a translator at the Infantry School of Arms, Fort Sill, Oklahoma, to be appointed by the commandants of the schools named, with the approval of the Secretary of War, \$75,000."

CHAPTER 2.

RETIREMENT.

§ 1710. Repealed by Act June 4, 1920, c. 227, § 26.

§ 1737a. Assignment of retired officers to duty.—In time of war retired officers may be employed on active duty in the discretion of the President, and when so employed they shall receive the full pay and allowances of their grades. (Act June 3, 1916, c. 134, §§ 24, 127a, 39 Stat. 183; June 4, 1920, c. 227, § 51.)

§ 1737. Paragraph three of this section was repealed by Act June 4, 1920, c. 227, § 24.

§ 1743. Paragraph three of this section was repealed by Act June 4, 1920, c. 227, § 24.

§ 1743a. Rank and pay of retired officer detailed on active duty.—Hereafter any retired officer who has been or shall be detailed on active duty shall receive the rank, pay, and allowances of the grade, not above that of colonel, that he would have attained in due course of promotion if he had remained on the active list for a period beyond the date of his retirement equal to the total amount of time during which he has been detailed to active service since his retirement. (Act June 3, 1916, c. 134, §§ 24, 127a, 39 Stat. 183; June 4, 1920, c. 227, § 51.)

§ 1744a. Pay of retired enlisted men.—Retired enlisted men who have served honorably as commissioned officers of the United States Army at some time between April 6, 1917, and November 11, 1918, including those who have been placed on the retired list during the World War, and who have been or may hereafter be discharged from their temporary commissions, shall receive the retired pay and allowances of warrant officers on the retired list, as provided in this Act. (Act June 3, 1916, c. 134, § 127a, as added by Act June 4, 1920, § 51.)

CHAPTER 3.

PAY AND ALLOWANCES.

§ 1747a. Increase in pay of commissioned officers.—Commencing January 1, 1920, commissioned officers of the Army, Navy, and Marine Corps, and Public Health Service shall be paid, in addition to all pay and allowances now allowed by law, increases at rates per annum as follows: Colonels in the Army and Marine Corps, captains in the Navy, and assistant surgeons general in the Public Health Service, \$600; lieutenant colonels in the Army and Marine Corps, commanders in the Navy, and senior surgeons in the Public Health Service, \$600; majors in the Army and Marine Corps, lieutenant commanders in the Navy, and surgeons in the Public Health Service, \$840; captains in the Army and Marine Corps, lieutenants in the Navy, and passed assistant surgeons in the Public Health Service, \$720; first lieutenants in the Army and Marine Corps, lieutenants (junior grade), acting assistant surgeons and acting assistant dental surgeons in the Navy, and assistant surgeons in the Public Health Service, \$600; second lieutenants in the Army and Marine Corps, and ensigns in the Navy, \$420: Provided, That contract surgeons of the Army serving full time shall receive the pay of a second lieutenant. (Act May 18, 1920, c. 190, § 1.)

§ 1763. Quarters and commutation thereof.

Note.—The rights and benefits prescribed under the Act of April 16, 1918, granting commutation of quarters, heat, and light during the present emergency to officers of the Army on duty in the field are hereby continued and made effective until June 30, 1922, and shall apply equally to officers of the Navy, Marine Corps, Coast Guard, and Public Health Service: Provided, That such rights and benefits as are prescribed for officers shall apply equally for enlisted men now entitled by regulations to quarters or to commutation therefor. (Act July 11, 1919, c. 9, § 1; Res. No. 26, Dec. 24, 1919, c. 19; Act May 18, 1920, c. 190, § 2.)

§ 1769a. Transportation of family of officer.—Hereafter when any commissioned officer, noncommissioned officer of the grade of color sergeant and above, including any noncommissioned officer of the Marine Corps of corresponding grade, warrant officer, chief petty officer, or petty officer (first class), having a wife or dependent child or children, is ordered to make a permanent change of station, the United States shall furnish transportation in kind from funds appropriated for the transportation of the Army, the Navy, the Marine Corps, the Coast Guard, the Coast and Geodetic Survey, and the Public Health Service to his new station for the wife and dependent child or children: Provided, That for persons in the naval service the term "permanent station," as used in this section, shall be interpreted to mean a shore station or the home yard of the vessel to which the person concerned may be ordered; and a duly authorized change in home yard or home port of such vessel shall be deemed a change of station: Provided further, That if the cost of such transportation exceeds that for transportation from the old to the new station the excess cost shall be paid to the United States by the officer concerned: Provided further, That transportation supplied the wife or dependent child or children of such officer, to or from stations beyond the continental limits of the United States, shall not be other than by Government transport, if such transportation is available: And provided further, That the personnel of the Navy shall have the benefit of all existing laws applying to the Army and the Marine Corps for the transportation of household effects. (Act May 18, 1920, c. 190, § 12.)

§ 1782. Pay of enlisted men.—On and after July 1, 1920, the grades of enlisted men shall be such as the President may from time to time direct, with monthly base pay at the rate of \$74 for the first grade, \$53 for the second grade, \$45 for the third grade, \$45 for the fourth grade, \$37 for the fifth grade, \$35 for the sixth grade, and \$30 for the seventh grade. Of the total authorized number of enlisted men, those in the first grade shall not exceed 0.6 per centum, those in the second grade 1.8 per centum, those in the third grade 2 per centum, those in the fourth grade 9.5 per centum, those in the fifth grade 9.5 per centum, those in the sixth grade 25 per centum. The temporary increase of pay for enlisted men of the Army authorized by section 4 of the Act of Congress approved May 18, 1920, shall be computed upon the base pay provided for in this section, and shall apply only to enlisted men of the first five grades. The temporary allowance of rations authorized by section 5, and the transportation privileges authorized by section 12, of the said Act, shall apply only to enlisted men of the first three grades.

Existing laws providing for continuous service pay are repealed to take effect July 1, 1920, and thereafter enlisted men shall receive an increase of ten per centum of their base pay for each five years of service in the Army, or service which by existing law is held to be the equivalent of Army service, such increase not to exceed 40 per centum.

Under such regulations as the Secretary of War may prescribe, enlisted men of the sixth and seventh grades may be rated as specialists, and receive extra pay therefor per month, as follows: First class, \$25; second class, \$20; third class, \$15; fourth class, \$12; fifth class, \$8; sixth class \$3. Of the total authorized number of enlisted men in the sixth and seventh grades, those rated as specialists of the first class shall not exceed 0.7 per centum; of the second class, 1.4 per centum; of the third class, 1.9 per centum; of the fourth class, 4.7 per centum; of the fifth class, 5 per centum; of the sixth class, 15.2 per centum. All laws and parts of laws providing for extra duty pay for enlisted men are repealed, to take effect July 1, 1920: Provided, That nothing in this section shall operate to reduce the pay which any enlisted man is now receiving, during his current enlistment and while he holds his present grade, nor to change the present rate of pay of any enlisted men now on the retired list.

Enlisted men who are now qualified, or who may hereafter qualify, as expert military telegraphers, shall receive \$5 a month; as first class military telegraphers, \$3 a month; as military telegraphers, \$2 a month; all in addition to their pay under such regulations as the Secretary of War may prescribe, but no enlisted man shall receive at the same time additional pay for more than one of the classifications named. (Acts May 11, 1908,

c. 163, 35 Stat. 109; June 3, 1916, c. 134, §§ 4b, 28, 40 Stat. 186; July 9, 1918, c. 143, XVII, § 5, 40 Stat. 890; June 4, 1920, c. 227, §§ 4, 28.)

§ 1782a. Increase in pay of enlisted men and nurses.—Commencing January 1, 1920, the pay of all enlisted men of the Army and Marine Corps and of the members of the female Nurse Corps of the Army and Navy is hereby increased 20 per centum: Provided, That such increase shall not apply to enlisted men whose initial pay, if it has already been permanently increased since April 6, 1917, is now less than \$33 per month. (Act May 18, 1920, c. 190, § 4.)

§ 1782b. Base pay for enlisted ratings.—Commencing January 1, 1920, the following shall be the rate of base pay for each enlisted rating: Chief petty officers with acting appointments, \$99 per month; chief petty officers with permanent appointments and mates, \$126 per month; petty officers, first class, \$84 per month; petty officers, second class, \$72 per month; petty officers, third class, \$60 per month; nonrated men, first class, \$54 per month, nonrated men, second class, \$48 per month; nonrated men, third class, \$33 per month: Provided, That the base pay of firemen, first class, shall be \$60 per month; firemen, second class, \$54 per month, firemen, third class, \$48 per month: Provided further, That the rate of base pay for each rating in the Naval Academy Band shall be as follows: Second leader, with acting appointment, \$99 per month, with permanent appointment, \$126 per month; drum major, \$84 per month; musicians, first class, \$72 per month; musicians second class, \$60 per month: Provided further, That the base pay of cabin stewards and cabin cooks shall be \$84 per month; wardroom stewards and wardroom cooks, \$72 per month; steerage stewards and steerage cooks, \$72 per month; warrant officers' stewards and warrant officers' cooks, \$60 per month; mess attendants, first class, \$42 per month; mess attendants, second class, \$36 per month; mess attendants, third class, \$33 per month: Provided further, That the retainer pay of those members of the Fleet Naval Reserve who, pursuant to call, shall return to active duty within one month after the approval of this Act and shall continue on active duty until the Navy shall have been recruited up to its permanent authorized strength, or until the number in the grade to which they may be assigned is filled, but not beyond June 30, 1922, shall be computed upon the base pay they are receiving when retransferred to inactive duty, plus the additions or increases prescribed in the Naval Appropriation Act approved August 29, 1916, for members of the Fleet Naval Reserve: Provided further, That the rates of base pay herein fixed shall not be further increased 10 per centum as authorized by an Act approved May 13, 1908, nor by the temporary war increases as authorized by section 15 of the Act approved May 22, 1917, as amended by the Act approved July 11, 1919. (Act May 18, 1920, c. 190, § 6.)

§ 1782c. Back pay for officers and enlisted men.—Nothing contained in this Act shall be construed as granting any back pay or allowances to any officer or enlisted man whose active service shall have terminated subsequent to December 31, 1919, and prior to the approval of this Act, unless such officers or enlisted men shall have been recalled to active service or shall have been reenlisted prior to the approval of this Act. (Act May 18, 1920, c. 190, § 9.)

§ 1782d. Operation of laws concerning pay; readjustments.—The provisions of section 1, 3, 4, 5, and 6 of this Act shall remain effective until the close of the fiscal year ending June 30, 1922, unless sooner amended or repealed: Provided, That the rates of pay prescribed in sections 4 and 6 hereof shall be the rates of pay during the current enlistment of all men in active service on the date of the approval of this Act, and for those who enlist, reenlist, or extend their enlistment prior to July 1, 1922, for the term of such enlistment, reenlistment, or extended enlistment: Provided further, That the increases provided in this Act shall not enter into the computation of the retired pay of officers or enlisted men who may be retired prior to July 1, 1922: And provided further, That a special committee, to be composed of five Members of the Senate, to be appointed by the Vice President, and five Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives, shall make an investigation and

report recommendations to their respective Houses not later than the first Monday in January, 1922, relative to the readjustment of the pay and allowances of the commissioned and enlisted personnel of the several services herein mentioned. (Act May 18, 1920, c. 190, § 13.)

Note.—See §§ 1747a, 1763a, 2314a, 1782, 1782a, 1782b, 1808a.

§ 1782e. Existing pay not reduced.—Nothing contained in this Act shall operate to reduce the pay or allowance of any officer or enlisted men on the active or retired list: Provided, That the allowances and gratuities now authorized by existing laws are not changed hereby, except as otherwise specified in this Act. (Act May 18, 1920, c. 190, § 14.)

§ 1782f. Transfer of appropriations.—The appropriations "Pay of the Navy, 1920," and "Pay, Marine Corps, 1920," are hereby made available for any of the expenses authorized by this Act, and any part or all of the appropriations "Provisions, Navy, 1920," and "Maintenance, Quartermaster's Department, Marine Corps, 1920," not required for the objects of expenditure specified in said appropriations, may be transferred to the appropriations "Pay of the Navy, 1920," or "Pay, Marine Corps, 1920," respectively, as may be required. (Act May 18, 1920, c. 190, § 15.)

§ 1783a. Service pay for soldiers and sailors of European war.—All persons serving in the military or naval forces of the United States during the present war who have, since April 6, 1917, resigned or been discharged under honorable conditions (or, in the case of reservists, been placed on inactive duty), or who at any time hereafter (but not later than the termination of the current enlistment or term of service) in the case of the enlisted personnel and female nurses, or within one year after the termination of the present war in the case of officers, may resign or be discharged under honorable conditions (or, in the case of reservists, be placed on inactive duty), shall be paid, in addition to all other amounts due them in pursuance of law, \$60 each.

This amount shall not be paid (1) to any person who though appointed or inducted into the military or naval forces on or prior to November 11, 1918, had not reported for duty at his station on or prior to such date; or (2) to any person who has already received one month's pay under the provisions of section 9 of the Act entitled "An Act to authorize the President to increase temporarily the military establishment of the United States," approved May 18, 1917; or (3) to any person who is entitled to retired pay; or (4) to the heirs or legal representatives of any person entitled to any payment under this section who has died or may die before receiving such payment. In the case of any person who subsequent to separation from the service as above specified has been appointed or inducted into the military or naval forces of the United States and has been or is again separated from the service as above specified, only one payment of \$60 shall be made.

The above amount, in the case of separation from the service on or prior to the passage of this Act, shall be paid as soon as practicable after the passage of this Act, and in the case of separation from the service after the passage of this Act shall be paid at the time of such separation.

The amounts herein provided for shall be paid out of the appropriations for "pay of the Army" and "pay of the Navy," respectively, by such disbursing officers as may be designated by the Secretary of War and the Secretary of the Navy.

The Secretary of War and the Secretary of the Navy respectively shall make all regulations necessary for the enforcement of the provisions of this section. (Act Feb. 24, 1919, c. 18, § 1406.)

§ 1783b. Extension of preceding section.—In case any enlisted man or enrolled man who, since the 11th day of November, 1918, has been or hereafter shall be discharged from any branch or class of the naval service for the purpose of reenlisting in the Navy or Marine Corps or heretofore has extended or hereafter shall extend his enlistment therein, he shall be entitled to the payment of the \$60 bonus provided in section 1406 of the Act entitled "An Act to provide revenue, and for other purposes," approved February 24, 1919, and to travel pay as authorized in section 3 of the Act entitled "An Act permitting any person who has served in the United

States Army, Navy, or Marine Corps in the present war to retain his uniform and personal equipment and to wear the same under certain conditions," approved February 28, 1919: Provided, That only one bonus shall be paid to the same person. (Act June 4, 1920, c. 228, § 6.)

§ 1791a. Retention of pay because of absence of records of accounts.—The pay due enlisted men of the Army shall not be withheld from them by reason of the fact that their service records or other official papers showing the status of their accounts with respect to pay have been lost or not returned from overseas and, under such regulations as may be prescribed by the Secretary of War, these men may be paid upon their personal affidavit as to date of last payment and condition of their accounts: Provided further, That payments made in accordance with such regulations (or which have already been made upon the affidavit of the soldier) shall be passed by the accounting officers of the Treasury to the credit of the disbursing officers making them. (Acts July 11, 1919, c. 8, § 1.)

§ 1799. Travel allowances after discharge.—Hereafter when an officer shall be discharged from the service, except by way of punishment for an offense, he shall receive for travel allowances from the place of his discharge to the place of his residence at the time of his appointment or to the place of his original muster into the service four cents per mile; * * * Provided further, That any officer or enlisted man in the service of the United States who was discharged in the Philippine Islands and there reentered the service through commission or enlistment shall, when discharged, except by way of punishment for an offense, receive for travel allowances from the place of his discharge to the place in the United States of his last preceding appointment or enlistment, or to his home if he was appointed or enlisted at a place other than his home, four cents per mile: Provided further, That for sea travel on discharge actual expenses only shall be paid to officers and transportation and subsistence only shall be furnished to enlisted men.

An enlisted man honorably discharged from the Army, Navy, or Marine Corps since November eleventh, nineteen hundred and eighteen, or who may hereafter be honorably discharged, shall receive five cents per mile from the place of his discharge to his actual bona fide home or residence, or original muster into the service, at his option: Provided, That for sea travel on discharge, transportation and subsistence only shall be furnished to enlisted men: Provided, That naval reservists duly enrolled who have been honorably released from active service since November eleventh, nineteen hundred and eighteen, or who may hereafter be honorably released from active service, shall be entitled likewise to receive mileage as aforesaid.

Hereafter when an enlisted man having ten or more years' service in the Army is discharged on account of disability incurred in the line of duty, transportation of his authorized change of station, allowance of baggage from his last duty station to his home in addition to other travel allowances fixed by law may be authorized by the Secretary of War. (R. S. §§ 1289, 1290; Acts March 2, 1901, c. 803, 31 Stat. 902; June 3, 1916, c. 134, § 126, 39 Stat. 217; Aug. 29, 1916, c. 418, § 1, 39 Stat. 633; Feb. 28, 1919, c. 70, § 3.)

Note.—Act Sept. 29, 1919, c. 65, § 1, provides that the second paragraph of this section "shall be held to apply to any enlisted man for whom the law authorizes travel allowances as an incident to entry upon and relief from active duty with the Army who has been called into active service during the present emergency, or who shall hereafter be called into active service."

§ 1799a. Travel allowance for soldiers, sailors and marines furloughed from hospitals; social intercourse between officers and enlisted men.—The Secretary of War and the Secretary of the Navy, under such regulations and restrictions as they may provide, are hereby authorized to issue to all wounded and otherwise disabled soldiers, sailors, or marines under treatment in any Army, Navy, or other hospital, who are given furloughs at any time, a furlough certificate, which certificate shall be signed by the commanding officer at such hospital. This furlough certificate when presented by such furloughed soldier, sailor, or marine to the agent of any railroad or steamship company over whose lines said soldier, sailor, or marine may travel to and from his home during the furlough period shall entitle said soldier, sailor, or marine to purchase a ticket from the point of departure to point of destination and return at the rate of 1 cent per mile, and on presentation of such certificate on which such ticket has been issued

the railroad or steamship company issuing such ticket shall be entitled to receive from the Treasury of the United States the difference between the amount paid for such ticket at the rate of 1 cent per mile and the regular scheduled rate for such ticket. The sum of \$250,000, or so much thereof as may be necessary, is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, for the purpose of carrying out the provisions of this paragraph; Provided, That no part of the funds herein appropriated shall be expended in payment of the salary of any officer of the Army of the United States who shall issue or cause to be issued any order, written or verbal, preventing social intercourse between officers and enlisted men of said Army while not on military duty when such order was not authorized by law or general executive order: Provided further, That this limitation shall not apply to any officer who shall have acted in obedience to the mandates of his superior. (Act June 5, 1920, c. 240.)

§ 1799b. Purchase of supplies by soldiers, sailors and marines while under medical treatment.—Hereafter honorably discharged officers and enlisted men of the Army, Navy, or Marine Corps who are being cared for and are receiving medical treatment from the Public Health Service shall, while undergoing such care and treatment, be permitted to purchase subsistence stores and articles of other authorized supplies, except articles of the uniform, from the Army, Navy, and Marine Corps at the same price as charged the officers and enlisted men of the Army, Navy, and Marine Corps. (Act June 5, 1920, c. 240.)

§ 1800. Allowances on death of officer or enlisted man.—Hereafter, immediately upon official notification of the death from wounds or disease, not the result of his own misconduct, of any officer or enlisted man on the active list of the Regular Army or on the retired list when on active duty, the Quartermaster General of the Army shall cause to be paid to the widow, and if there be no widow to the child or children, and if there be no widow or child to any other dependent relative of such officer or enlisted man previously designated by him, an amount equal to six months' pay at the rate received by such officer or enlisted man at the date of his death. The Secretary of War shall establish regulations requiring each officer and enlisted man having no wife or child to designate the proper dependent relative to whom this amount shall be paid in case of his death. Said amount shall be paid from funds appropriated for the pay of the Army.

That nothing in this Act shall be construed as making the provisions of this Act applicable to officers or enlisted men of any forces or troops of the Army of the United States other than those of the Regular Army, and nothing in this Act shall be construed to apply in commissioned grades to any officers except those holding permanent or provisional appointments in the regular Army. (Acts May 11, 1908, c. 163, 35 Stat. 108; March 3, 1909, c. 252, 35 Stat. 735; Dec. 17, 1919, c. 6, §§ 1, 2.)

§ 1808a. Additional ration; pay and allowance of field clerks.—All non-commissioned officers of the Army of grade of color sergeant and above as fixed by existing Army Regulations and noncommissioned officers of the Marine Corps of corresponding grades shall be entitled to one ration or commutation therefor in addition to that to which they are now entitled. The commutation value shall be determined by the President on July 1 of each fiscal year, and for the current fiscal year the value shall be computed on the basis of 55 cents per ration; Provided, That Army field clerks and field Clerks Quartermaster Corps, whose total pay and allowances do not exceed \$2,500 per annum, shall be paid an increase at the rate of \$240 per annum: Provided further, That such Army field clerks and field clerks Quartermaster Corps, whose total pay and allowances exceed \$2,500 but do not exceed \$2,740 per annum, shall be paid such additional amount as will make their total pay and allowances not to exceed \$2,740 per annum: Provided further, That this section shall not be construed to reduce the pay and allowances of any Army field clerk or field clerk Quartermaster Corps. (Act May 18, 1920, c. 190, § 5.)

Note.—Act June 5, 1920, c. 240, provides: "The sum of \$12,000 is authorized to be expended for supplying meals or furnishing commutations of rations to enlisted men of the Regular Army and the National Guard who may be competitors in the national rifle match: Provided further, That no competitor shall be entitled to commutation of rations in excess of \$1.50 per day, and when meals are furnished no greater expense than that sum per man per day for the period the contest is in progress shall be incurred."

CHAPTER 4.

THE MILITARY ACADEMY. OTHER MILITARY INSTRUCTIONS.

§ 1841. Quartermaster and commissary for cadets.

Note.—Act March 4, 1919, c. 124, provides that "all technical and scientific supplies for the departments of instruction of the Military Academy shall be purchased by contract or otherwise, as the Secretary of War may deem best."

§ 1858. Age of appointees.—Appointees shall be admitted to the academy only between the ages of seventeen and twenty-two years, except in the following case: That during the calendar years 1919, 1920 and 1921 any appointee who has served honorably and faithfully not less than one year in the armed forces of the United States or allied armies in the late war with Germany, and who possesses the other qualification required by law, may be admitted between the ages of seventeen and twenty-four years: Provided, That whenever any member of the graduating class shall fail to complete the course with his class by reason of sickness, or deficiency in his studies, or other cause, such failure shall not operate to delay the admission of his successor. (R. S. § 1318; Res. June 16, 1866, No. 49, § 1. 14 Stat. 359; March 30, 1920, c. 112.)

§ 1876. Pay of instructors.

Note.—Act March 4, 1919, c. 124, making appropriation for pay of two expert assistant civilian instructors in military gymnastics, provides that "these civilian instructors employed in the department of modern languages and the department of tactics shall be entitled to public quarters and to the same allowances with respect to fuel and light as those of a first lieutenant when occupying public quarters."

§ 1876a. Quarters and allowances for civilian instructors.—Civilian instructors employed in the department of modern languages and the department of tactics shall be entitled to public quarters and to the same allowances with respect to fuel and light as those of a first lieutenant when occupying public quarters. (Acts June 27, 1918, c. 108; March 30, 1920, c. 112.)

§ 1880. Pay of cadets; rations.

Note.—Act March 4, 1919, c. 124, provides that "the pay of cadets for the fiscal year ending June 30, 1920, shall be fixed at \$780 per annum and one ration per day or commutation therefor at the rate of 68 cents per ration, to be paid from the appropriation for the subsistence of the Army."

§ 1882. Battalion sergeant major.—[From appropriations for pay of one battalion sergeant major, Infantry.] The enlisted man in the headquarters, United States Corps of Cadets, performing that duty has the rank, pay, and allowance of that grade. And provided further, That if performing the above duties at time of retirement the said enlisted man shall be retired with the rank, pay, and allowances of a retired sergeant major, Infantry.

For pay of one battalion sergeant major, Infantry: Provided, That the enlisted man at headquarters, United States Military Academy, performing that duty shall have the rank, pay, and allowance of that grade. (First paragraph, Acts May 29, 1917, c. 22, 40 Stat. 93; June 27, 1918, c. 103, 40 Stat.; second paragraph, Act June 27, 1918, c. 108; March 4, 1919, c. 124.)

Note.—In the Act last cited, provision is made "for pay of four sergeants (Coast Artillery) to be used as assistant noncommissioned instructors of cadets and for the purpose of military administration to be attached to the United States Military Academy detachment of Field Artillery."

§ 1882a. Regimental sergeant major.—For the pay of one regimental sergeant major, Infantry, \$864: Provided, That the enlisted man in the headquarters United States Corps of Cadets, performing that duty has the rank, pay, and allowances of that grade. (Act March 4, 1919, c. 124.)

§ 1888a. Purchase of supplies.—All technical and scientific supplies for the departments of instruction of the Military Academy shall be purchased by contract or otherwise, as the Secretary of War may deem best. (Act March 30, 1920, c. 112.)

§ 1889a. **Sale of useless supplies.**—Hereafter, when any machinery, apparatus, implements, supplies, or materials which have been heretofore or may hereafter be purchased or acquired from appropriations made for the support of the United States Military Academy are no longer needed or are no longer serviceable, they may be sold in such manner as the superintendent may direct; and that the proceeds shall be turned into the Treasury as miscellaneous receipts. (Act March 4, 1919, c. 124.)

§ 1892a. **Hotel on academy reservation.**—The Secretary of War is hereby authorized to allow any corporation, company, or individual to erect on the United States Military Academy reservation at West Point, New York, a hotel, in accordance with plans and specification to be approved by the Superintendent of the United States Military Academy and to enjoy the revenue therefrom for a period of fifty years; after which time said hotel shall become the property of the United States: Provided, That the title and ownership of said hotel may be accepted by the Secretary of War on the behalf of the United States at any time. That said hotel shall be conducted under such regulations including the rates and the charges for accommodations thereat as may be promulgated by the Superintendent of the United States Military Academy under the direction of the Secretary of War. (Act March 4, 1919, c. 124.)

§ 1894. **Military equipment and instructors at other schools and colleges.**—The Secretary of War is hereby authorized, under such regulations as he may prescribe, to issue such arms, tentage, and equipment as he shall deem necessary for proper military training to schools and colleges, other than those provided for in section 40 of this Act, having a course of military training prescribed by the Secretary of War and having not less than one hundred physically fit male students above the age of fourteen years; and the Secretary of War is hereby authorized to detail such available active or retired officers, warrant officers, and enlisted men of the Regular Army as he may deem necessary to said schools and colleges, other than those provided for in section 40 of this Act: Provided, That while so detailed they shall receive active pay and allowances: Provided further, That in time of peace retired officers, warrant officers, or enlisted men shall not be detailed under the provisions of this section without their consent. (Acts June 3, 1916, §§ 55c, 56, 39 Stat. 197; June 4, 1920, c. 227, § 35.)

§ 1901a. **Detail of officers for general study.**—The Secretary of War is hereby authorized, in his discretion, to detail not to exceed 2 per centum of the commissioned officers of the Regular Army in any fiscal year as students at such technical, professional, and other educational institutions, or as students, observers, or investigators at such industrial plants, hospitals and other places, as shall be best suited to enable such officers to acquire a knowledge of or experience in the specialties in which it is deemed necessary that such officers shall perfect themselves. The number of officers so detailed shall, as far as practicable, be distributed proportionately among the various branches: Provided, That no expense shall be incurred by the United States in addition to the pay and allowances of the officers so detailed, except for the cost of tuition at such technical, professional, and other educational institutions. (Act June 3, 1916, c. 134, § 127a, as added by Act June 4, 1920, c. 227, § 51.)

§ 1901b. **Detail of officers for study in aeronautic engineering.**—That the Secretary of War be, and he hereby is, authorized to detail such officers of the Army as he may select, not exceeding twenty-five at any one time, to attend and pursue courses of aeronautic engineering or associate study at such schools, colleges, and universities as he may select.

The Secretary of War is authorized to pay tuition for the officers so detailed and to provide them with necessary text-books and technical supplies from any moneys available for the Air Service of the Army not otherwise specifically appropriated. (Act May 10, 1920, c. 175, §§ 1, 2.)

CHAPTER 5.

ARTICLES OF WAR.

§ 1902. Title and scope of statute.—The articles included in this section shall be known as the Articles of War and shall at all times and in all places govern the armies of the United States. (R. S. § 1342; Acts April 10, 1906, c. 20, 2 Stat. 359; Aug. 29, 1916, c. 418, § 3, 39 Stat. 650; June 4, 1920, c. 227, § 52.)

I. PRELIMINARY PROVISIONS.

§ 1903. Definitions.—The following words when used in these articles shall be construed in the sense indicated in this article, unless the context shows that a different sense is intended, namely:

(a) The word "officer" shall be construed to refer to a commissioned officer;

(b) The word "soldier" shall be construed as including a noncommissioned officer, a private, or any other enlisted man;

(c) The word "company" shall be understood as including a troop or battery; and

(d) The word "battalion" shall be understood as including a squadron. (Art. 1; Acts April 10, 1806, c. 20, 2 Stat. 359; Aug. 29, 1916, c. 418, § 3, 39 Stat. 650; June 4, 1920, c. 227, § 52.)

§ 1904. Persons subject to military law.—The following persons are subject to these articles and shall be understood as included in the term "any person subject to military law," or "persons subject to military law," whenever used in these articles: Provided, That nothing contained in this Act, except as specifically provided in Article 2, subparagraph (c), shall be construed to apply to any person under the United States naval jurisdiction unless otherwise specifically provided by law.

(a) All officers, members of the Army Nurse Corps, warrant officers, Army field clerks, field clerks Quartermaster Corps, and soldiers belonging to the Regular Army of the United States; all volunteers, from the dates of their muster or acceptance into military service of the United States; and all other persons lawfully called, drafted, or ordered into, or to duty or for training in, the said service, from the dates they are required by the terms of the call, draft or order to obey the same;

(b) Cadets;

(c) Officers and soldiers of the Marine Corps when detached for service with the armies of the United States by order of the President: Provided, That an officer or soldier of the Marine Corps when so detached may be tried by a military court-martial for an offense committed against the laws for the government of the naval service prior to his detachment, and for an offense committed against these articles he may be tried by a naval court-martial after such detachment ceases;

(d) All retainers to the camp and all persons accompanying or serving with the armies of the United States without the territorial jurisdiction of the United States, and in time of war all such retainers and persons accompanying or serving with the armies of the United States in the field, both within and without the territorial jurisdiction of the United States, though not otherwise subject to these articles;

(e) All persons under sentence adjudged by courts-martial;

(f) All persons admitted into the Regular Army Soldiers' Home at Washington, District of Columbia. (Art. 2; Acts April 10, 1806, c. 20, Arts. 60, 97, 2 Stat. 366, 371; July 29, 1861, c. 25, § 3, 12 Stat. 282; March 2, 1863, c. 67, § 1, 12 Stat. 696; June 18, 1898, c. 469, § 5, 30 Stat. 483; Aug. 29, 1916, c. 418, § 3, 39 Stat. 651; June 4, 1920, c. 227, § 52.)

II. COURTS-MARTIAL.

§ 1905. Courts-martial classified.—Courts-martial shall be of three kinds, namely:

First, general courts-martial;

Second, special courts-martial; and

Third, summary courts-martial. (Art. 3; Acts March 2, 1913, c. 93, 37 Stat. 721; Aug. 29, 1916, c. 418, § 3, 39 Stat. 651; June 4, 1920, c. 227, § 52.)

A. COMPOSITION

§ 1906. **Who may serve on courts-martial.**—All officers in the military service of the United States, and officers of the Marine Corps when detached for service with the Army by order of the President, shall be competent to serve on courts-martial for the trial of any persons who may lawfully be brought before such courts for trial. When appointing courts-martial the appointing authority shall detail as members thereof those officers of the command who, in his opinion, are best qualified for the duty by reason of age, training, experience, and judicial temperament; and officers having less than two years' service shall not, if it can be avoided without manifest injury to the service, be appointed as members of courts-martial in excess of the minority membership thereof. (Art. 4; Acts April 10, 1806, c. 20, Arts. 68, 97, 2 Stat. 367, 371; June 30, 1834, c. 132, § 2, 4 Stat. 713; Aug. 29, 1916, c. 418, § 3, 39 Stat. 651; June 4, 1920, c. 227, § 52.)

§ 1907. **General courts-martial.**—General courts-martial may consist of any number of officers not less than five. (Art. 5; Acts April 10, 1806, c. 20, Art. 64, 2 Stat. 367; March 2, 1913, c. 93, 37 Stat. 721; Aug. 29, 1916, c. 418, § 3, 39 Stat. 651; June 4, 1920, c. 227, § 52.)

§ 1908. **Special courts-martial.**—Special courts-martial may consist of any number of officers—not less than three. (Art. 6; Acts March 2, 1913, c. 93, 37 Stat. 721; Aug. 29, 1916, c. 418, § 3, 39 Stat. 651; June 4, 1920, c. 227, § 52.)

§ 1909. **Summary courts-martial.**—A summary court-martial shall consist of one officer. (Art. 7; Acts March 2, 1913, c. 93, 37 Stat. 721; Aug. 29, 1916, c. 418, § 3, 39 Stat. 651; June 4, 1920, c. 227, § 52.)

B. BY WHOM APPOINTED.

§ 1910. **General courts-martial.**—The President of the United States, the commanding officer of a territorial division or department, the Superintendent of the Military Academy, the commanding officer of an army, an army corps, a division, or a separate brigade, and, when empowered by the President, the commanding officer of any district or of any force or body of troops may appoint general courts-martial; but when any such commander is the accuser or the prosecutor of the person or persons to be tried, the court shall be appointed by superior competent authority, and no officer shall be eligible to sit as a member of such court when he is the accuser or a witness for the prosecution.

The authority appointing a general court-martial shall detail as one of the members thereof a law member, who shall be an officer of the Judge Advocate General's Department, except that when an officer of that department is not available for the purpose the appointing authority shall detail instead an officer of some other branch of the service selected by the appointing authority as specially qualified to perform the duties of law member. The law member, in addition to his duties as a member, shall perform such other duties as the President may by regulations prescribe. (Art. 8; Acts July 5, 1884, c. 224, 23 Stat. 121; March 2, 1913, c. 93, 37 Stat. 722; Aug. 29, 1916, c. 418, § 3, 39 Stat. 652; June 4, 1920, c. 227, § 52.)

§ 1911. **Special courts-martial.**—The commanding officer of a district, garrison, fort, camp, or other place where troops are on duty, and the commanding officer of a brigade, regiment, detached battalion, or other detached command may appoint special courts-martial; but when any such commanding officer is the accuser or the prosecutor of the person or persons to be tried, the court shall be appointed by superior authority, and may in any case be appointed by superior authority when by the latter deemed desirable; and no officer shall be eligible to sit as a member of such court when he is the accuser or a witness for the prosecution. (Art. 9; Acts Feb. 18, 1875, c. 80, § 1, 18 Stat. 318; March 2, 1913, c. 93, 37 Stat. 722; Aug. 29, 1916, c. 418, § 3, 39 Stat. 652; June 4, 1920, c. 227, § 52.)

§ 1912. **Summary courts-martial.**—The commanding officer of a garrison fort, camp, or other place where troops are on duty, and the commanding officer of a regiment, detached battalion, detached company, or other detachment may appoint summary courts-martial; but such summary courts-

martial may in any case be appointed by superior authority when by the latter deemed desirable: Provided, That when but one officer is present with a command he shall be the summary court-martial of that command and shall hear and determine cases brought before him. (Art. 10; Acts March 2, 1913, c. 93, 37 Stat. 722; Aug. 29, 1916, c. 418, § 3, 39 Stat. 652; June 4, 1920, c. 227, § 52.)

§ 1913. Appointment of trial judge advocates and counsel.—For each general or special court-martial the authority appointing the court shall appoint a trial judge advocate and a defense counsel and for each general court-martial one or more assistant trial judge advocates and one or more assistant defense counsel when necessary: Provided, however, That no officer who has acted as member, trial judge advocate, assistant trial judge advocate, defense counsel, or assistant defense counsel in any case shall subsequently act as staff judge advocate to the reviewing or confirming authority upon the same case. (Art. 11; Acts April 10, 1806, c. 20, Art. 69, 2 Stat. 367; Aug. 29, 1916, c. 418, § 3, 39 Stat. 652; June 4, 1920, c. 227, § 52.)

C. JURISDICTION.

§ 1914. General courts-martial.—General courts-martial shall have power to try any person subject to military law for any crime or offense made punishable by these articles, and any other person who by the law of war is subject to trial by military tribunals: Provided, That no officer shall be brought to trial before a general court-martial appointed by the Superintendent of the Military Academy: Provided further, That the officer competent to appoint a general court-martial for the trial of any particular case may, when in his judgment the interest of the service shall so require, cause any case to be tried by a special court-martial notwithstanding the limitations upon the jurisdiction of the special court-martial as to offenses set out in article 13; but the limitations upon jurisdiction as to persons and upon punishing power set out in said article shall be observed. (Art. 12; Acts March 2, 1913, c. 93, 37 Stat. 722; Aug. 29, 1916, c. 418, § 3, 39 Stat. 652; June 4, 1920, c. 227, § 52.)

§ 1915. Special courts-martial.—Special courts-martial shall have power to try any person subject to military law for any crime or offense not capital made punishable by these articles: Provided, That the President may, by regulations, except from the jurisdiction of special courts-martial any class or classes of persons subject to military law.

Special courts-martial shall not have power to adjudge confinement in excess of six months, nor to adjudge forfeiture of more than two-thirds pay per month for a period of not exceeding six months. (Art. 13; Acts March 2, 1913, c. 93, 37 Stat. 722; Aug. 29, 1916, c. 418, § 3, 39 Stat. 652; June 4, 1920, c. 227, § 52.)

§ 1916. Summary courts-martial.—Summary courts-martial shall have power to try any person subject to military law, except an officer, a member of the Army Nurse Corps, a warrant officer, an Army field clerk, a field clerk Quartermaster Corps, a cadet, or a soldier holding the privileges of a certificate of eligibility to promotion, for any crime or offense not capital made punishable by these articles: Provided, That noncommissioned officers shall not, if they object thereto, be brought to trial before a summary court-martial without the authority of the officer competent to bring them to trial before a general court-martial: Provided further, That the President may, by regulations, except from the jurisdiction of summary courts-martial any class or classes of persons subject to military law.

Summary courts-martial shall not have power to adjudge confinement in excess of one month, restriction to limits for more than three months, or forfeiture or detention of more than two-thirds of one month's pay. (Art. 14; Acts March 2, 1901, c. 809, § 4, 31 Stat. 951; March 2, 1913, c. 93, 37 Stat. 722; Aug. 29, 1916, c. 418, § 3, 39 Stat. 653; June 4, 1920, c. 227, § 52.)

§ 1917. Jurisdiction not exclusive.—The provisions of these articles conferring jurisdiction upon courts-martial shall not be construed as depriving military commissions, provost courts, or other military tribunals of con-

current jurisdiction in respect of offenders or offenses that by statute or by law of war may be triable by such military commissions, provost courts, or other military tribunals. (Art. 15; Acts Aug. 29, 1916, c. 418, § 3, 39 Stat. 653; June 4, 1920, c. 227, § 52.)

§ 1918. Officers, how triable.—Officers shall be triable only by general courts-martial, and in no case shall an officer, when it can be avoided, be tried by officers inferior to him in rank. (Art. 16; Acts April 10, 1806, c. 20, Art. 75, 2 Stat. 368; Aug. 29, 1916, c. 418, § 3, 39 Stat. 653; June 4, 1920, c. 227, § 52.)

D. PROCEDURE.

§ 1919. Trial judge advocate to prosecute; counsel to defend.—The trial judge advocate of a general or special court-martial shall prosecute in the name of the United States, and shall, under the direction of the court, prepare the record of its proceedings. The accused shall have the right to be represented in his defense before the court by counsel of his own selection, civil counsel if he so provides, or military if such counsel be reasonably available, otherwise by the defense counsel duly appointed for the court pursuant to article 11. Should the accused have counsel of his own selection, the defense counsel and assistant defense counsel, if any, of the court, shall, if the accused so desires, act as his associate counsel. (Art. 17; Acts April 10, 1806, c. 20, Art. 69, 2 Stat. 367; Aug. 29, 1916, c. 418, § 3, 39 Stat. 653; June 4, 1920, c. 227, § 52.)

§ 1920. Challenges.—Members of a general or special court-martial may be challenged by the accused or the trial judge advocate for cause stated to the court. The court shall determine the relevancy and validity thereof, and shall not receive a challenge to more than one member at a time. Challenges by the trial judge advocate shall ordinarily be presented and decided before those by the accused are offered. Each side shall be entitled to one peremptory challenge; but the law member of the court shall not be challenged except for cause. (Art. 18; Acts April 10, 1806, c. 20, Art. 71; 2 Stat. 368; Aug. 29, 1916, c. 418, § 3, 39 Stat. 653; June 4, 1920, c. 227, § 52.)

§ 1921. Oaths.—The trial judge advocate of a general or special court-martial shall administer to the members of the court, before they proceed upon any trial, the following oath or affirmation: "You, A. B., do swear (or affirm) that you will well and truly try and determine, according to the evidence, the matter now before you, between the United States of America and the person to be tried, and that you will duly administer justice, without partiality, favor, or affection, according to the provisions of the rules and articles for the government of the armies of the United States, and if any doubt should arise, not explained by said articles, then according to your conscience, the best of your understanding, and the custom of war in like cases; and you do further swear (or affirm) that you will not divulge the findings or sentence of the court until they shall be published by the proper authority or duly announced by the court, except to the trial judge advocate and assistant trial judge advocate; neither will you disclose or discover the vote or opinion of any particular member of the court-martial upon a challenge or upon the findings or sentence, unless required to give evidence thereof as a witness by a court of justice in due course of law. So help you God."

When the oath or affirmation has been administered to the members of a general or special court-martial, the president of the court shall administer to the trial judge advocate and to each assistant trial judge advocate, if any, an oath or affirmation in the following form: "You, A. B., do swear (or affirm) that you will faithfully and impartially perform the duties of a trial judge advocate, and will not divulge the findings or sentence of the court to any but the proper authority until they shall be duly disclosed. So help you God."

All persons who give evidence before a court-martial shall be examined on oath or affirmation in the following form: "You swear (or affirm) that the evidence you shall give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth. So help you God."

Every reporter of the proceedings of a court-martial shall, before entering upon his duties, make oath or affirmation in the following form: "You swear (or affirm) that you will faithfully perform the duties of reporter to this court. So help you God."

Every interpreter in the trial of any case before a court-martial shall, before entering upon his duties, make oath or affirmation in the following form: "You swear (or affirm) that you will truly interpret in the case now in hearing. So help you God."

In case of affirmation the closing sentence of adjuration will be omitted. (Art. 19; R. S. § 1203; Acts April 10, 1806, c. 20, arts. 69, 73, 2 Stat. 367, 368; March 3, 1863, c. 75, § 28, 12 Stat. 736; July 27, 1892, c. 272, § 1, 27 Stat. 277; Aug. 29, 1916, c. 418, § 3, 39 Stat. 653; June 4, 1920, c. 227, § 52.)

§ 1922. Continuances.—A court-martial may, for reasonable cause, grant a continuance to either party for such time and as often as may appear to be just. (Art. 20; Acts March 3, 1863, c. 75, § 29, 12 Stat. 736; Aug. 29, 1916, c. 418, § 3, 39 Stat. 654; June 4, 1920, c. 227, § 52.)

§ 1923. Refusal or failure to plead.—When an accused arraigned before a court-martial fails or refuses to plead, or answers foreign to the purpose, or after plea of guilty makes a statement inconsistent with the plea, or when it appears to the court that he entered a plea of guilty improvidently or through lack of understanding of its meaning and effect, the court shall proceed to trial and judgment as if he had pleaded not guilty. (Art. 21; Acts April 10, 1806, c. 20, Art. 70, 2 Stat. 368; Aug. 29, 1916, c. 418, § 3, 39 Stat. 654; June 4, 1920, c. 227, § 52.)

§ 1924. Process to obtain witnesses.—Every trial judge advocate of a general or special court-martial and every summary court-martial shall have power to issue the like process to compel witnesses to appear and testify which courts of the United States, having criminal jurisdiction, may lawfully issue; but such process shall run to any part of the United States, its Territories, and possessions. (Art. 22; R. S. 1202; Acts March 3, 1863, c. 79, § 25, 12 Stat. 754; Aug. 29, 1916, c. 418, § 3, 39 Stat. 654; June 4, 1920, c. 227, § 52.)

§ 1925. Refusal to appear or testify.—Every person not subject to military law who, being duly subpoenaed to appear as a witness before any military court, commission, court of inquiry, or board, or before any officer, military or civil, designated to take a deposition to be read in evidence before such court, commission, court of inquiry, or board, willfully neglects or refuses to appear, or refuses to qualify as a witness, or to testify, or produce documentary evidence which such person may have been legally subpoenaed to produce, shall be deemed guilty of a misdemeanor, for which such person shall be punished on information in the district court of the United States or in a court of original criminal jurisdiction in any of the territorial possessions of the United States, jurisdiction being hereby conferred upon such courts for such purpose; and it shall be the duty of the United States district attorney or the officer prosecuting for the Government in any such court of original criminal jurisdiction, on the certification of the facts to him by the military court, commission, court of inquiry, or board, to file an information against and prosecute the person so offending, and the punishment of such person, on conviction, shall be a fine of not more than \$500 or imprisonment not to exceed six months, or both, at the discretion of the court: Provided, That the fees of such witness and his mileage, at the rates allowed to witnesses attending the courts of the United States, shall be duly paid or tendered said witness, such amounts to be paid out of the appropriation for the compensation of witnesses: Provided further, That every person not subject to military law, who before any court-martial, military tribunal, or military board, or in connection with, or in relation to any proceedings or investigation before it or had under any of the provisions of this Act, is guilty of any of the acts made punishable as offenses against public justice by any provision of chapter 6 of the Act of March 4, 1909, entitled "An Act to codify, revise, and amend the penal laws of the United States" (Volume

35, United States Statutes at Large, page 1088), or any amendment thereof, shall be punished as therein provided. (Art. 23; Acts March 2, 1901, c. 809, § 1, 31 Stat. 950; Aug. 29, 1916, c. 418, § 3, 39 Stat. 652; June 4, 1920, c. 227, § 52.)

§ 1926. Compulsory self-incrimination prohibited.—No witness before a military court, commission, court of inquiry, or board, or before any officer conducting an investigation, or before any officer, military or civil, designated to take a deposition to be read in evidence before a military court, commission, court of inquiry, or board, or before an officer conducting an investigation, shall be compelled to incriminate himself or to answer any question the answer to which may tend to incriminate him, or to answer any question not material to the issue when such answer might tend to degrade him. (Art. 24; Acts March 2, 1901, c. 809, § 1, 31 Stat. 950; Aug. 29, 1916, c. 418, § 3, 39 Stat. 654.)

§ 1927. Depositions; when admissible.—A duly authenticated deposition taken upon reasonable notice to the opposite party may be read in evidence before any military court or commission in any case not capital, or in any proceeding before a court of inquiry or a military board, if such deposition be taken when the witness resides, is found, or is about to go beyond the State, Territory, or District in which the court, commission, or board is ordered to sit, or beyond the distance of one hundred miles from the place of trial or hearing, or when it appears to the satisfaction of the court, commission, board, or appointing authority that the witness, by reason of age, sickness, bodily infirmity, imprisonment, or other reasonable cause, is unable to appear and testify in person at the place of trial or hearing: Provided, That testimony by deposition may be adduced for the defense in capital cases. (Art. 25; Acts April 10, 1806, c. 20, Art. 74, 2 Stat. 368; March 3, 1863, c. 75, § 27, 12 Stat. 736; Aug. 29, 1916, c. 418, § 3, 39 Stat. 655.)

§ 1928. Depositions; before whom taken.—Depositions to be read in evidence before military courts, commissions, courts of inquiry, or military boards, or for other use in military administration, may be taken before and authenticated by any officer, military or civil, authorized by the laws of the United States or by the laws of the place where the deposition is taken to administer oaths. (Art. 26; Acts Aug. 29, 1916, c. 418, § 3, 39 Stat. 655; June 4, 1920, c. 227, § 52.)

§ 1929. Courts of inquiry; when records admissible.—The record of the proceedings of a court of inquiry may, with the consent of the accused, be read in evidence before any court-martial or military commission in any case not capital nor extending to the dismissal of an officer, and may also be read in evidence in any proceeding before a court of inquiry or a military board: Provided, That such evidence may be adduced by the defense in capital cases or cases extending to the dismissal of an officer. (Art. 27; Acts April 10, 1806, c. 20, Art. 92, 2 Stat. 370; Aug. 29, 1916, c. 418, § 3, 39 Stat. 655; June 4, 1920, c. 227, § 52.)

§ 1930. Certain acts to constitute desertion.—Any officer who, having tendered his resignation and prior to due notice of the acceptance of the same, quits his post or proper duties without leave and with intent to absent himself permanently therefrom shall be deemed a deserter.

Any soldier who, without having first received a regular discharge again enlists in the Army, or in the militia when in the service of the United States, or in the Navy or Marine Corps of the United States, or in any foreign army, shall be deemed to have deserted the service of the United States; and, where the enlistment is in one of the forces of the United States mentioned above, to have fraudulently enlisted therein.

Any person subject to military law who quits his organization or place of duty with the intent to avoid hazardous duty or to shirk important service shall be deemed a deserter. (Art. 28; Acts Aug. 5, 1861, c. 54, § 2, 12 Stat. 316; Aug. 29, 1916, c. 418, § 3, 39 Stat. 655; June 4, 1920, c. 227, § 52.)

§ 1931. **Court to announce action.**—Whenever the court has acquitted the accused upon all specifications and charges, the court shall at once announce such result in open court. Under such regulations as the President may prescribe, the findings and sentence in other cases may be similarly announced. (Art. 29; Acts April 10, 1806, c. 20, Art. 22, 2 Stat. 362; Aug. 29, 1916, c. 418, § 3, 39 Stat. 655; June 4, 1920, c. 227, § 52.)

§ 1932. **Closed sessions.**—Whenever a general or special court-martial shall sit in closed session, the trial judge advocate and the assistant trial judge advocate, if any, shall withdraw; and, when their assistance in referring to the recorded evidence is required, it shall be obtained in open court, and in the presence of the accused and of his counsel, if there be any. (Art. 30; Acts July 27, 1892, c. 272, § 2, 27 Stat. 277; Aug. 29, 1916, c. 418, § 3, 39 Stat. 655; June 4, 1920, c. 227, § 52.)

§ 1933. **Method of voting.**—Voting by members of a general or special court-martial upon questions of challenge, on the findings, and on the sentence shall be by secret written ballot. The junior member of the court shall in each case count the votes, which count shall be checked by the president, who will forthwith announce the result of the ballot to the members of the court. The law member of the court, if any, or if there be no law member of the court, then the president, may rule in open court upon interlocutory question, other than challenges, arising during the proceedings: Provided, That unless such rulings be made by the law member of the court if any member object thereto the court shall be cleared and closed and the question decided by a majority vote, viva voce, beginning with the junior in rank: And provided further, That if any such ruling be made by the law member of the court upon any interlocutory question other than an objection to the admissibility of evidence offered during the trial, and any member object to the ruling, the court shall likewise be cleared and closed and the question decided by a majority vote, viva voce, beginning with the junior in rank: Provided further, however, That the phrase, "objection to the admissibility of evidence offered during the trial," as used in the next preceding proviso hereof, shall not be construed to include question as to the order of the introduction of witnesses or other evidence, nor of the recall of witnesses for further examination, nor as to whether expert witnesses shall be admitted or called upon any question, nor as to whether the court shall view the premises where an offense is alleged to have been committed, nor as to the competency of witnesses, as, for instance, of children, witnesses alleged to be mentally incompetent, and the like, nor as to the insanity of accused, or whether the existence of mental disease or mental derangement on the part of the accused has become an issue in the trial, or accused required to submit to physical examination, nor whether any argument or statement of counsel for the accused or of the trial judge advocate is improper, nor any ruling in a case involving military strategy or tactics or correct military action; but, upon all these questions arising on the trial, if any member object to any ruling of the law member, the court shall be cleared and closed and the question decided by majority vote of the members in the manner aforesaid. (Art. 31; Acts April 10, 1806, c. 20, Art. 72, 2 Stat. 368; Aug. 29, 1916, c. 418, § 3, 39 Stat. 655; June 4, 1920, c. 227, § 52.)

§ 1934. **Contempts.**—A military tribunal may punish as for contempt any person who uses any menacing words, signs, or gestures in its presence, or who disturbs its proceedings by any riot or disorder: Provided, That such punishment shall in no case exceed one month's confinement, or a fine of 100, or both. (Art. 32; Acts April 10, 1806, c. 20, Art. 76, 2 Stat. 368; Aug. 29, 1916, c. 418, § 3, 39 Stat. 655; June 4, 1920, c. 227, § 52.)

§ 1935. **Records of general courts-martial.**—Each general court-martial shall keep a separate record of its proceedings in the trial of each case brought before it, and such record shall be authenticated by the signature of the president and the trial judge advocate; but in case the record can not be authenticated by the president and trial judge advocate, by reason of the death, disability, or absence of either or both of them, it shall be

signed by a member in lieu of the president and by an assistant trial judge advocate, if there be one, in lieu of the trial judge advocate; otherwise by another member of the court. (Art. 33; Acts Aug. 29, 1916, c. 418, § 3, 39 Stat. 655; June 4, 1920, v. 227, § 52.)

§ 1936. Records of special and summary courts-martial.—Each special court-martial and each summary court-martial shall keep a record of its proceedings, separate for each case, which record shall contain such matter and be authenticated in such manner as may be required by regulations which the President may from time to time prescribe. (Art. 34; Acts June 18, 1898, c. 469, § 4, 30 Stat. 483; Aug. 29, 1916, c. 418, § 3, 39 Stat. 656; June 4, 1920, c. 227, § 52.)

§ 1937. Disposition of records of general courts-martial.—The trial judge advocate of each general court-martial shall, with such expedition as circumstances may permit, forward to the appointing authority or to his successor in command the original record of the proceedings of such court in the trial of each case. All records of such proceedings shall, after having been acted upon, be transmitted to the Judge Advocate General of the Army. (Art. 35; Acts April 10, 1806, c. 20, Art. 90, 2 Stat. 370; July 17, 1862, c. 201, §§ 5, 6, 12 Stat. 598; July 28, 1866, c. 299, § 12, 14 Stat. 334, Aug. 29, 1916, c. 418, § 3, 39 Stat. 656; June 4, 1920, c. 227, § 52.)

§ 1938. Disposition of records of special and summary courts-martial.—After having been acted upon by the officer appointing the court, or by the officer commanding for the time being, the record of each trial by special court-martial and a report of each trial by summary court-martial shall be transmitted to such general headquarters as the President may designate in regulations, there to be filed in the office of the judge advocate. When no longer of use, records of summary courts-martial may be destroyed. (Art. 36, Acts March 3, 1877, c. 102, § 1, 19 Stat. 310; June 18, 1898, c. 469, § 4, 30 Stat. 483; Aug. 29, 1916, c. 418, § 3, 39 Stat. 656; June 4, 1920, c. 227, § 52.)

§ 1939. Irregularities; effect of.—The proceedings of a court-martial shall not be held invalid, nor the findings or sentence disapproved, in any case on the ground of improper admission or rejection of evidence or for any error as to any matter of pleading or procedure unless in the opinion of the reviewing or confirming authority, after an examination of the entire proceedings, it shall appear that the error complained of has injuriously affected the substantial rights of an accused: Provided, That the act or omission upon which the accused has been tried constitutes an offense denounced and made punishable by one or more of these articles: Provided further, That the omission of the words "hard labor" in any sentence of a court-martial adjudging imprisonment or confinement shall not be construed as depriving the authorities executing such sentence of imprisonment or confinement of the power to require hard labor as a part of the punishment in any case where it is authorized by the Executive order prescribing maximum punishments. (Art. 37; Acts Aug. 29, 1916, c. 418, § 3, 39 Stat. 656; June 4, 1920, c. 227, § 52.)

§ 1940. President may prescribe rules.—The President may, by regulations, which he may modify from time to time, prescribe the procedure, including modes of proof, in cases before courts-martial, courts of inquiry, military commissions, and other military tribunals, which regulations shall, in so far as he shall deem practicable, apply the rules of evidence generally recognized in the trial of criminal cases in the district courts of the United States: Provided, That nothing contrary to or inconsistent with these articles shall be so prescribed: Provided further, That all rules made in pursuance of this article shall be laid before the Congress Annually. (Arts. 38; Acts Aug. 29, 1916, c. 418, § 3, 39 Stat. 656; June 4, 1920, c. 227, § 52.)

E. LIMITATIONS UPON PROSECUTIONS.

§ 1941. **As to time.**—Except for desertion committed in time of war, or for mutiny or murder, no person subject to military law shall be liable to be tried or punished by a court-martial for any crime or offense committed more than two years before the arraignment of such person: Provided, That for desertion in time of peace or for any crime or offense punishable under articles ninety-three and ninety-four of this code the period of limitations upon trial and punishment by court-martial shall be three years: Provided further, That the period of any absence of the accused from the jurisdiction of the United States, and also any period during which by reason of some manifest impediment the accused shall not have been amenable to military justice, shall be excluded in computing the aforesaid periods of limitation: And provided further, That this article shall not have the effect to authorize the trial or punishment for any crime or offense barred by the provisions of existing law. (Art. 39; Acts April 10, 1806, c. 20, Art. 88, 2 Stat. 369; April 11, 1890, c. 78, 26 Stat. 54; Aug. 29, 1916, c. 418, § 3, 39 Stat. 656; June 4, 1920, c. 227, § 52.)

§ 1942. **As to number.**—No person shall, without his consent, be tried a second time for the same offense; but no preceeding in which an accused has been found guilty by a court-martial upon any charge or specification shall be held to be a trial in the sense of this article until the reviewing and, if there be one, the confirming authority shall have taken final action upon the case.

No authority shall return a record of trial to any court-martial for reconsideration of—

- (a) An acquittal; or
- (b) A finding of not guilty of any specification; or
- (c) A finding of not guilty of any charge, unless the record shows a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some article of war; or
- (d) The sentence originally imposed, with a view to increasing its severity, unless such sentence is less than the mandatory sentence fixed by law for the offense or offenses upon which a conviction has been had.

And no court-martial, in any proceedings on revision, shall reconsider its finding or sentence in any particular in which a return of the record of trial for such reconsideration is hereinbefore prohibited. (Art. 40; Acts April 10, 1806, c. 20, Art. 87, 2 Stat. 369; Aug. 29, 1916, c. 418, § 3, 39 Stat. 657.)

F. PUNISHMENTS.

§ 1943. **Cruel and unusual punishments prohibited.**—Cruel and unusual punishments of every kind, including flogging, branding, marking, or tattooing on the body, are prohibited. (Art. 41; Acts Aug. 5, 1861, c. 54, § 3, 12 Stat. 317; June 6, 1872, c. 316, § 2, 17 Stat. 261; Aug. 29, 1916, c. 418, § 3, 39 Stat. 657; June 4, 1920, c. 227, § 52.)

§ 1944. **Places of confinement—When lawful.**—Except for desertion in time of war, repeated desertion in time of peace, and mutiny, no person shall under the sentence of a court-martial be punished by confinement in a penitentiary unless an act or omission of which he is convicted is recognized as an offense of a civil nature and so punishable by penitentiary confinement for more than one year by some statute of the United States, of general application within the continental United States, excepting section 289, Penal Code of the United States, 1910, or by the law of the District of Columbia, or by way of commutation of a death sentence, and unless, also, the period of confinement authorized and adjudged by such court-martial is more than one year: Provided, That when a sentence of confinement is adjudged by a court-martial upon conviction of two or more acts or omissions any one of which is punishable under these articles by confinement in a penitentiary, the entire sentence of confinement may be executed in a penitentiary: Provided further, That penitentiary confinement hereby authorized may be served in any penitentiary directly or indirectly under the jurisdiction of the United States: Provided further,

That persons sentenced to dishonorable discharge and to confinement not in a penitentiary shall be confined in the United States Disciplinary Barracks or elsewhere as the Secretary of War or the reviewing authority may direct, but not in a penitentiary. (Art. 42; Acts July 16, 1862, c. 190, §§ 1, 4, 12 Stat. 589; Aug. 29, 1916, c. 418, § 3, 39 Stat. 657; June 4, 1920, c. 227, § 52.)

§ 1945. Death sentence.—When lawful.—No person shall, by general court-martial, be convicted of an offense for which the death penalty is made mandatory by law, nor sentenced to suffer death, except by the concurrence of all the members of said court-martial present at the time the vote is taken, and for an offense in these articles expressly made punishable by death; nor sentenced to life imprisonment, nor to confinement for more than ten years, except by the concurrence of three-fourths of all the members present at the time the vote is taken. All other convictions and sentences, whether by general or special court-martial, may be determined by a two-thirds vote of those members present at the time the vote is taken. All other questions shall be determined by a majority vote. (Art. 43; Acts April 10, 1866, c. 20, Art. 87, 2 Stat. 369; Aug. 29, 1916, c. 418, § 3, 39 Stat. 657; June 4, 1920, c. 227, § 52.)

§ 1946. Cowardice; fraud—Accessory penalty.—When an officer is dismissed from the service for cowardice or fraud, the crime, punishment, name, and place of abode of the delinquent shall be published in the newspapers in and about the camp and in the State from which the offender came or where he usually resides; and after such publication it shall be scandalous for an officer to associate with him. (Art. 44; Acts April 10, 1866, c. 20, Art. 85, 2 Stat. 369; Aug. 29, 1916, c. 418, § 3, 39 Stat. 657; June 4, 1920, c. 227, § 52.)

§ 1947. Maximum limits.—Whenever the punishment for a crime or offense made punishable by these articles is left to the discretion of the court-martial, the punishment shall not exceed such limit or limits as the President may from time to time prescribe: Provided, That in time of peace the period of confinement in a penitentiary shall in no case exceed the maximum period prescribed by the law which, under article 42 of these articles, permits confinement in a penitentiary, unless in addition to the offense so punishable under such law the accused shall have been convicted at the same time of one or more other offenses. (Art. 45; Acts Sept. 27, 1890, c. 998, 26 Stat. 291; Aug. 29, 1916, c. 418, § 3, 39 Stat. 657; June 4, 1920, c. 227, § 52.)

G. ACTION BY APPOINTING OR SUPERIOR AUTHORITY.

§ 1948. Action by convening authority.—Under such regulations as may be prescribed by the President every record of trial by general court-martial or military commission received by a reviewing or confirming authority shall be referred by him, before he acts thereon, to his staff judge advocate or to the Judge Advocate General. No sentence of a court-martial shall be carried into execution until the same shall have been approved by the officer appointing the court or by the officer commanding for the time being. (Art. 46; Acts April 10, 1866, c. 20, art. 65, 2 Stat. 367; July 27, 1892, c. 272, § 1, 27 Stat. 277; Aug. 29, 1916, c. 418, § 3, 39 Stat. 657; June 4, 1920, c. 227, § 52.)

§ 1949. Powers incident to power to approve.—The power to approve the sentence of a court-martial shall be held to include:

(a) The power to approve or disapprove a finding and to approve only so much of a finding of guilty of a particular offense as involves a finding of guilty of a lesser included offense when, in the opinion of the authority having power to approve, the evidence of record requires a finding on only the lesser degree of guilt; and

(b) The power to approve or disapprove the whole or any part of the sentence.

(c) The power to remand a case for rehearing, under the provisions of article 50½. (Art. 47; Acts Aug. 29, 1916, c. 418, § 3, 39 Stat. 657; June 4, 1920, c. 227, § 52.)

§ 1950. Confirmation—When required.—In addition to the approval required by article 46, confirmation by the President is required in the following cases before the sentence of a court-martial is carried into execution, namely:

- (a) Any sentence respecting a general officer.
- (b) Any sentence extending to the dismissal of an officer, except that in time of war a sentence extending to the dismissal of an officer below the grade of brigadier general may be carried into execution upon confirmation by the commanding general of the Army in the field or by the commanding general of the territorial department or division:
- (c) Any sentence extending to the suspension or dismissal of a cadet; and
- (d) Any sentence of death, except in the cases of persons convicted in time of war of murder, rape, mutiny, desertion, or as spies; and in such excepted cases a sentence of death may be carried into execution, subject to the provisions of article 50½, upon confirmation by the commanding general of the Army in the field or by the commanding general of the territorial department or division.

When the authority competent to confirm the sentence has already acted as the approving authority no additional confirmation by him is necessary. (Art. 48; Acts April 10, 1806, c. 20, art. 65, 2 Stat. 367; Dec. 24, 1861, c. 3, 12 Stat. 330; July 17, 1862, c. 201, § 5, 12 Stat. 598; March 3, 1863, c. 75, § 21, 12 Stat. 735; July 2, 1864, c. 215, § 1, 13 Stat. 356; Aug. 29, 1916, c. 418, § 3, 39 Stat. 658; June 4, 1920, c. 227, § 52.)

§ 1951. Powers incident to power to confirm.—The power to confirm the sentence of a court-martial shall be held to include:

- (a) The power to confirm or disapprove a finding, and to confirm so much only of a finding of guilty of a particular offense as involves a finding of guilty of a lesser included offense when, in the opinion of the authority having power to confirm, the evidence of record requires a finding of only the lesser degree of guilt; and
- (b) The power to confirm or disapprove the whole or any part of the sentence.
- (c) The power to remand a case for rehearing, under the provisions of article 50½. (Art. 49; Acts April 10, 1806, c. 20, art. 65, 2 Stat. 367; Aug. 29, 1916, c. 418, § 3, 39 Stat. 658; June 4, 1920, c. 227, § 52.)

§ 1952. Mitigation or remission of sentences.—The power to order the execution of the sentence adjudged by a court-martial shall be held to include, *inter alia*, the power to mitigate or remit the whole or any part of the sentence.

Any unexecuted portion of a sentence adjudged by a court-martial may be mitigated or remitted by the military authority competent to appoint, for the command, exclusive of penitentiaries and the United States Disciplinary Barracks, in which the person under sentence is held, a court of the kind that imposed the sentence, and the same power may be exercised by superior military authority; but no sentence approved or confirmed by the President shall be remitted or mitigated by any other authority, and no approved sentence of loss of files by an officer shall be remitted or mitigated by any authority inferior to the President, except as provided in the fifty-second article.

When empowered by the President so to do, the commanding general of the Army in the field or the commanding general of the territorial department or division, may approve or confirm and commute (but not approve or confirm without commuting), mitigate, or remit and then order executed as commuted, mitigated, or remitted any sentence which under these articles requires the confirmation of the President before the same may be executed.

The power of remission or mitigation shall extend to all uncollected forfeitures adjudged by sentence of court-martial. (Art. 50; Acts April 10, 1806, c. 20, Art. 89, 2 Stat. 369; July 17, 1862, c. 201, § 7, 12 Stat. 598; June 18, 1898, c. 469, § 3, 30 Stat. 483; Aug. 29, 1916, c. 418, § 3, 39 Stat. 658; Feb. 28, 1919, c. 81; June 4, 1920, c. 227, § 52.)

§ 1952a. Review; rehearing.—The Judge Advocate General shall constitute, in his office, a board of review consisting of not less than three officers of the Judge Advocate General's Department.

Before any record of trial in which there has been adjudged a sentence requiring approval or confirmation by the President under the provisions of article 46, article 48, or article 51 is submitted to the President, such record shall be examined by the board of review. The board shall submit its opinion, in writing, to the Judge Advocate General, who shall, except as herein otherwise provided, transmit the record and the board's opinion, with his recommendations, directly to the Secretary of War for the action of the President.

Except as herein provided, no authority shall order the execution of any other sentence of a general court-martial involving the penalty of death, dismissal not suspended, dishonorable discharge not suspended, or confinement in a penitentiary, unless and until the board of review shall, with the approval of the Judge Advocate General, have held the record of trial upon which such sentence is based legally sufficient to support the sentence; except that the proper reviewing or confirming authority may upon his approval of a sentence involving dishonorable discharge or confinement in a penitentiary order its execution if it is based solely upon findings of guilty of a charge or charges and a specification or specifications to which the accused has pleaded guilty. When the board of review, with the approval of the Judge Advocate General, holds the record in a case in which the order of execution has been withheld under the provisions of this paragraph legally sufficient to support the findings and sentence, the Judge Advocate General shall so advise the reviewing or confirming authority from whom the record was received, who may thereupon order the execution of the sentence. When in a case in which the order of execution has been withheld under the provisions of this paragraph, the board of review holds the record of trial legally insufficient to support the findings or sentence, either in whole or in part, or that errors of law have been committed injuriously affecting the substantial rights of the accused, and the Judge Advocate General concurs in such holding of the board of review, such findings and sentence shall be vacated in whole or in part in accord with such holding and the recommendations of the Judge Advocate General thereon, and the record shall be transmitted through the proper channels to the convening authority for a rehearing or such other action as may be proper. In the event that the Judge Advocate General shall not concur in the holding of the board of review, the Judge Advocate General shall forward all the papers in the case, including the opinion of the board of review and his own dissent therefrom, directly to the Secretary of War for the action of the President, who may confirm the action of the reviewing authority or confirming authority below, in whole or in part, with or without remission, mitigation, or commutation, or may disapprove, in whole or in part, any finding of guilty, and may disapprove or vacate the sentence, in whole or in part.

When the President or any reviewing or confirming authority disapproves or vacates a sentence the execution of which has not theretofore been duly ordered, he may authorize or direct a rehearing. Such rehearing shall take place before a court composed of officers not members of the court which first heard the case. Upon such rehearing the accused shall not be tried for any offense of which he was found not guilty by the first court, and no sentence in excess of or more severe than the original sentence shall be enforced unless the sentence be based upon a finding of guilty of an offense not considered upon the merits in the original proceedings: Provided, That such rehearing shall be had in all cases where a finding and sentence have been vacated by reason of the action of the board of review approved by the Judge Advocate General holding the record of trial legally insufficient to support the findings or sentence or that errors of law have been committed injuriously affecting the substantial rights of the accused, unless, in accord with such action, and the recommendations of the Judge Advocate General thereon, the findings or sentence are approved in part only, or the record is returned for revision, or unless the case is dismissed by order of the reviewing or confirming authority. After any such rehearing had on the order of the President, the record of trial shall, after examination by the board of review, be transmitted by the Judge Advocate General, with the board's opinion and his recommendations, directly to the Secretary of War for the action of the President.

Every record of trial by general court-martial, examination of which by the board of review is not hereinbefore in this article provided for, shall nevertheless be examined in the Judge Advocate General's Office; and if found legally insufficient to support the findings and sentence, in whole or in part, shall be examined by the board of review, and the board, if it also finds that such record is legally insufficient to support the findings and sentence, in whole or in part, shall, in writing, submit its opinion to the Judge Advocate General, who shall transmit the record and the board's opinion, with his recommendations, directly to the Secretary of War for the action of the President. In any such case the President may approve, disapprove, or vacate, in whole or in part, any findings of guilty, or confirm, mitigate, commute, remit, or vacate any sentence, in whole or in part, and direct the execution of the sentence as confirmed or modified, and he may restore the accused to all rights affected by the findings and sentence, or part thereof, held to be invalid; and the President's necessary orders to this end shall be binding upon all departments and officers of the Government.

Whenever necessary, the Judge Advocate General may constitute two or more boards of review in his office, with equal powers and duties.

Whenever the President deems such action necessary, he may direct the Judge Advocate General to establish a branch of his office, under an Assistant Judge Advocate General, with any distant command, and to establish in such branch office a board of review, or more than one. Such Assistant Judge Advocate General and such board or boards of review shall be empowered to perform for that command, under the general supervision of the Judge Advocate General, the duties which the Judge Advocate General and the board or boards of review in his office would otherwise be required to perform in respect of all cases involving sentences not requiring approval or confirmation by the President. (Art. 50½; Act June 4, 1920, c. 227, § 52.)

§ 1953. Suspension of sentences of dismissal or death.—The authority competent to order the execution of a sentence of dismissal of an officer or a sentence of death may suspend such sentence until the pleasure of the President be known, and in case of such suspension a copy of the order of suspension, together with a copy of the record of trial, shall immediately be transmitted to the President. (Art. 51; Acts April 10, 1806, c. 20, Art. 89, 2 Stat. 369; Aug. 29, 1916, c. 418, § 3, 39 Stat. 658; June 4, 1920, c. 227, § 52.)

§ 1954. Suspension of sentences.—The authority competent to order the execution of the sentence of a court-martial may, at the time of the approval of such sentence, suspend the execution, in whole or in part, of any such sentence as does not extend to death, and may restore the person under sentence to duty during such suspension; and the Secretary of War or the commanding officer holding general court-martial jurisdiction over any such offender, may at any time thereafter, while the sentence is being served, suspend the execution, in whole or in part, of the balance of such sentence and restore the person under sentence to duty during such suspension. A sentence, or any part thereof, which has been so suspended may be remitted, in whole or in part, except in cases of persons confined in the United States Disciplinary Barracks or its branches, by the officer who suspended the same, by his successor in office, or by any officer exercising appropriate court-martial jurisdiction over the command in which the person under sentence may be serving at the time, and, subject to the foregoing exceptions, the same authority may vacate the order of suspension at any time and order the execution of the sentence or the suspended part thereof in so far as the same shall not have been previously remitted, subject to like power of suspension. The death or honorable discharge of a person under a suspended sentence shall operate as a complete remission of any unexecuted or unremitted part of such sentence. (Art. 52; Acts April 27, 1914, c. 72, 38 Stat. 354; Aug. 29, 1916, c. 418, § 3, 39 Stat. 659; July 9, 1918, c. 143, X, 40 Stat.; June 4, 1920, c. 227, § 52.)

§ 1955. Execution or remission—Confinement in disciplinary barracks.—When a sentence of dishonorable discharge has been suspended until the soldier's release from confinement, the execution or remission of any part of his sentence shall, if the soldier be confined in the United States Disciplinary Barracks, be suspended until the soldier's release from confinement.

plinary Barracks, or any branch thereof, be directed by the Secretary of War. (Art. 53; Acts Aug. 29, 1916, c. 418, § 3, 39 Stat. 659; July 9, 1918, c. 143, X, 40 Stat.; June 4, 1920, c. 227, § 52.)

III. PUNITIVE ARTICLES.

A. ENLISTMENT; MUSTER; RETURNS.

§ 1956. Fraudulent enlistment.—Any person who shall procure himself to be enlisted in the military service of the United States by means of willful misrepresentation or concealment as to his qualifications for enlistment, and shall receive pay or allowances under such enlistment, shall be punished as a court-martial may direct. (Art. 54; Acts July 27, 1892, c. 272, § 3, 27 Stat. 277; Aug. 29, 1916, c. 418, § 3, 39 Stat. 659; June 4, 1920, c. 227, § 52.)

§ 1957. Officer making unlawful enlistment.—Any officer who knowingly enlists or musters into the military service any person whose enlistment or muster in is prohibited by law, regulations, or orders shall be dismissed from the service or suffer such other punishment as a court-martial may direct. (Art. 55; Acts March 2, 1833, c. 68, § 6, 4 Stat. 647; March 3, 1863, c. 75, § 2, 12 Stat. 731; July 4, 1864, c. 237, § 5, 13 Stat. 380; March 3, 1865, c. 79, § 18, 13 Stat. 490; May 15, 1872, c. 162, § 2, 17 Stat. 117; Aug. 29, 1916, c. 418, § 3, 39 Stat. 659; June 4, 1920, c. 227, § 52.)

§ 1958. False muster.—Any officer who knowingly makes a false muster of man or animal, or who signs or directs or allows the signing of any muster roll knowing the same to contain a false muster or false statement as to the absence or pay of any officer or soldier, or who wrongfully takes money or other consideration on mustering in a regiment, company, or other organization, or on signing muster rolls, or who knowingly musters as an officer or soldier a person who is not such officer or soldier, shall be dismissed from the service and suffer such other punishment as a court-martial may direct. (Art. 56; Acts April 10, 1806, c. 20, Arts. 13-17, 2 Stat. 361, 362; Aug. 29, 1916, c. 418, § 3, 39 Stat. 659; June 4, 1920, c. 227, § 52.)

§ 1959. False returns; omission to render returns.—Every officer whose duty it is to render to the War Department or other superior authority a return of the state of the troops under his command, or of the arms, ammunition, clothing, funds, or other property thereunto belonging, who knowingly makes a false return thereof shall be dismissed from the service and suffer such other punishment as a court-martial may direct. And any officer who, through neglect or design, omits to render such return shall be punished as a court-martial may direct. (Art. 57; Acts April 10, 1806, c. 20, arts. 18, 19, 2 Stat. 362; Aug. 29, 1916, c. 418, § 3, 39 Stat. 660; July 9, 1918, c. 143, X, 40 Stat.; June 4, 1920, c. 227, § 52.)

B. DESERTION; ABSENCE WITHOUT LEAVE.

§ 1960. Desertion.—Any person subject to military law who deserts or attempts to desert the service of the United States shall, if the offense be committed in time of war, suffer death or such other punishment as a court-martial may direct, and, if the offense be committed at any other time, any punishment, excepting death, that a court-martial may direct. (Art. 58; Acts April 10, 1806, c. 20, Art. 20, 2 Stat. 362; May 29, 1830, c. 183, 4 Stat. 418; Aug. 29, 1916, c. 418, § 3, 39 Stat. 660; June 4, 1920, c. 227, § 52.)

§ 1961. Advising or aiding another to desert.—Any person subject to military law who advises or persuades or knowingly assists another to desert the service of the United States shall, if the offense be committed in time of war, suffer death or such other punishment as a court-martial may direct, and, if the offense be committed at any other time, any punishment, excepting death, that a court-martial may direct. (Art. 59; Acts April 10, 1806, c. 20, art. 23, 2 Stat. 362; May 29, 1830, c. 183, 4 Stat. 418; Aug. 29, 1916, c. 418, § 3, 39 Stat. 660; June 4, 1920, c. 227, § 52.)

§ 1962. Entertaining a deserter.—Any officer who, after having discovered that a soldier in his command is a deserter from the military or naval service or from the Marine Corps, retains such deserter in his command with-

out informing superior authority or the commander of the organization to which the deserter belongs, shall be punished as a court-martial may direct. (Art. 60; Acts April 10, 1806, c. 20, art. 22, 2 Stat.; Aug. 29, 1916, c. 418, § 3, 39 Stat. 660; June 4, 1920, c. 227, § 52.)

§ 1963. Absence without leave.—Any person subject to military law who fails to repair at the fixed time to the properly appointed place of duty, or goes from the same without proper leave, or absents himself from his command, guard, quarters, station, or camp without proper leave, shall be punished as a court-martial may direct. (Art. 61; Acts April 10, 1806, c. 20, arts. 21, 41, 44, 2 Stat. 365; Aug. 29, 1916, c. 418, § 3, 39 Stat. 660; June 4, 1920, c. 227, § 52.)

C. DISRESPECT; INSUBORDINATION; MUTINY.

§ 1964. Disrespect toward the President, Vice President, Congress, Secretary of War, governors, legislatures.—Any officer who uses contemptuous or disrespectful words against the President, Vice President, the Congress of the United States, the Secretary of War, or the governor or legislature of any State, Territory, or other possession of the United States in which he is quartered shall be dismissed from the service or suffer such other punishment as a court-martial may direct. Any other person subject to military law who so offends shall be punished as a court-martial may direct. (Art. 62; Acts April 10, 1806, c. 20, art. 5, 2 Stat. 360; Aug. 29, 1916, c. 418, § 3, 39 Stat. 660; June 4, 1920, c. 227, § 52.)

§ 1965. Disrespect toward superior officer.—Any person subject to military law who behaves himself with disrespect toward his superior officer shall be punished as a court-martial may direct. (Art. 63; Acts April 10, 1806, c. 20, art. 6, 2 Stat. 360; Aug. 29, 1916, c. 418, § 3, 39 Stat. 660; June 4, 1920, c. 227, § 52.)

§ 1966. Assaulting or willfully disobeying superior officer.—Any person subject to military law who, on any pretense whatsoever, strikes his superior officers or draws or lifts up any weapon or offers any violence against him, being in the execution of his office, or willfully disobeys any lawful command of his superior officer, shall suffer death or such other punishment as a court-martial may direct. (Art. 64; Acts April 10, 1806, c. 20, art. 9, 2 Stat. 361; Aug. 29, 1916, c. 418, § 3, 39 Stat. 660; June 4, 1920, c. 227, § 52.)

§ 1967. Insubordinate conduct toward noncommissioned officer.—Any soldier who strikes or assaults, or who attempts or threatens to strike or assault, or willfully disobeys the lawful order of a warrant officer or a noncommissioned officer while in the execution of his office, or uses threatening or insulting language, or behaves in an insubordinate or disrespectful manner toward a warrant officer or a noncommissioned officer while in the execution of his office, shall be punished as a court-martial may direct. (Art. 65; Act Aug. 29, 1916, c. 418, § 3, 39 Stat. 661; June 4, 1920, c. 227, § 52.)

§ 1968. Mutiny or sedition.—Any person subject to military law who attempts to create or who begins, excites, causes, or joins in any mutiny or sedition in any company, party, post, camp, detachment, guard, or other command shall suffer death or such other punishment as a court-martial may direct. (Art. 36; Acts April 10, 1806, c. 20, art. 7, 2 Stat. 360; Aug. 29, 1916, c. 418, § 3, 39 Stat. 661; June 4, 1920, c. 227, § 52.)

§ 1969. Failure to suppress mutiny or sedition.—Any officer or soldier who, being present at any mutiny or sedition, does not use his utmost endeavor to suppress the same, or knowing or having reason to believe that a mutiny or sedition is to take place, does not without delay give information thereof to his commanding officer shall suffer death or such other punishment as a court-martial may direct. (Art. 67; Acts April 10, 1806, c. 20, art. 8, 2 Stat. 360; Aug. 29, 1916, c. 418, § 3, 39 Stat. 661; June 4, 1920, c. 227, § 52.)

§ 1970. Quarrels; frays; disorders.—All officers, members of the Army Nurse Corps, warrant officers, Army field clerks, field clerks, Quartermaster Corps, and noncommissioned officers have power to part and quell all quarrels, frays, and disorders among persons subject to military law and to

order officers who take part in the same into arrest, and other persons subject to military law who take part in the same into arrest or confinement, as circumstances may require, until their proper superior officer is acquainted therewith. And whosoever, being so ordered, refuses to obey such officer, nurse, band leader, warrant officer, field clerk, or noncommissioned officer, or draws a weapon upon or otherwise threatens or does violence to him, shall be punished as a court-martial may direct. (Art. 68; Acts April 10, 1806, c. 20, art. 27, 2 Stat. 363; Aug. 29, 1916, c. 418, § 3, 39 Stat. 661; June 4, 1920, c. 227, § 52.)

D. ARREST; CONFINEMENT.

§ 1971. Arrest or confinement.—Any person subject to military law charged with crime or with a serious offense under these articles shall be placed in confinement or in arrest as circumstances may require; but when charged with a minor offense only such person shall not ordinarily be placed in confinement. Any person placed in arrest under the provisions of this article shall thereby be restricted to his barracks quarters, or tent, unless such limits shall be enlarged by proper authority. Any officer or cadet who breaks his arrest or who escapes from confinement, whether before or after trial or sentence and before he is set at liberty by proper authority, shall be dismissed from the service or suffer such other punishment as a court-martial may direct; and any other person subject to military law who escapes from confinement or who breaks his arrest, whether before or after trial or sentence and before he is set at liberty by proper authority, shall be punished as a court-martial may direct. (Art. 69; Acts April 10, 1806, c. 20, arts. 77, 78, 2 Stat. 368, 369; Aug. 29, 1916, c. 418, § 3, 39 Stat. 661; June 4, 1920, c. 227, § 52.)

§ 1972. Charges; action upon.—Charges and specifications must be signed by a person subject to military law, and under oath either that he has personal knowledge of, or has investigated, the matter set forth therein, and that the same are true in fact, to the best of his knowledge and belief.

No charge will be referred for trial until after a thorough and impartial investigation thereof shall have been made. This investigation will include inquiries as to the truth of the matter set forth in said charges, form of charges, and what disposition of the case should be made in the interest of justice and discipline. At such investigation full opportunity shall be given to the accused to cross-examine witnesses against him if they are available and to present anything he may desire in his own behalf either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after such investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides.

Before directing the trial of any charge by general court-martial the appointing authority will refer it to his staff judge advocate for consideration and advice.

When any person subject to military law is placed in arrest or confinement immediate steps will be taken to try the person accused or to dismiss the charge and release him. Any officer who is responsible for unnecessary delay in investigating or carrying the case to a final conclusion shall be punished as a court-martial may direct. When a person is held for trial by general court-martial the commanding officer will, within eight days after the accused is arrested or confined, if practicable, forward the charges to the officer exercising general court-martial jurisdiction and furnish the accused with a copy of such charges. If the same be not practicable, he will report to superior authority the reasons for delay. The trial judge advocate will cause to be served upon the accused a copy of the charges upon which trial is to be had, and a failure so to serve such charges will be ground for a continuance unless the trial be had on the charges furnished the accused as hereinbefore provided. In time of peace no person shall, against his objection, be brought to trial before a general court-martial within a period of five days subsequent to the service of charges upon him. (Art. 70; Acts April 10, 1806, c. 20, art. 78, 2 Stat. 369; July 17, 1862, c. 200, § 11, 12 Stat. 595; Aug. 29, 1916, c. 418, § 3, 39 Stat. 661; June 4, 1920, c. 227, § 52.)

§ 1973. Refusal to receive and keep prisoners.—No provost marshal or commander of a guard shall refuse to receive or keep any prisoner committed to his charge by an officer belonging to the forces of the United States, provided the officer committing shall, at the time, deliver an account in writing, signed by himself, of the crime or offense charged against the prisoner. Any officer or soldier so refusing shall be punished as a court-martial may direct. (Art. 71; Act April 10, 1806, c. 20, art. 80, 2 Stat. 369; Aug. 29, 1916, c. 418, § 3, 39 Stat. 662; June 4, 1920, c. 227, § 52.)

§ 1974. Report of prisoners received.—Every commander of a guard to whose charge a prisoner is committed shall, with twenty-four hours after such confinement, or as soon as he is relieved from his guard, report in writing to the commanding officer the name of such prisoner, the offense charged against him, and the name of the officer committing him; and if he fails to make such report, he shall be punished as a court-martial may direct. (Art. 72; Acts April 10, 1806, c. 20, art. 82, 2 Stat. 369; Aug. 29, 1916, c. 418, § 3, 39 Stat. 662; June 4, 1920, c. 227, § 52.)

§ 1975. Releasing prisoner without proper authority.—Any person subject to military law who, without proper authority, releases any prisoner duly committed to his charge, or who through neglect or design suffers any prisoner so committed to escape, shall be punished as a court-martial may direct. (Art. 73; Acts April 10, 1806, c. 20, art. 81, 2 Stat. 369; Aug. 29, 1916, c. 418, § 3, 39 Stat. 662; June 4, 1920, c. 227, § 52.)

§ 1976. Delivery of offenders to civil authorities.—When any person subject to military law, except one who is held by the military authorities to answer, or who is awaiting trial or result of trial, or who is undergoing sentence for a crime or offense punishable under these articles, is accused of a crime or offense committed within the geographical limits of the States of the Union and the District of Columbia, and punishable by the laws of the land, the commanding officer is required, except in time of war, upon application duly made, to use his utmost endeavor to deliver over such accused person to the civil authorities, or to aid the officers of justice in apprehending and securing him, in order that he may be brought to trial. Any commanding officer who upon such application refuses or willfully neglects, except in time of war, to deliver over such accused person to the civil authorities or to aid the officers of justice in apprehending and securing him shall be dismissed from the service or suffer such other punishment as a court-martial may direct.

When, under the provisions of this article, delivery is made to the civil authorities of an offender undergoing sentence of a court-martial, such delivery, if followed by conviction, shall be held to interrupt the execution of the sentence of the court-martial, and the offender shall be returned to military custody, after having answered to the civil authorities for his offense, for the completion of the said court-martial sentence. (Art. 74; Acts April 10, 1806, c. 20, art. 33, 2 Stat. 364; March 3, 1863, c. 75, § 30, 12 Stat. 736; Aug. 29, 1916, c. 418, § 3, 39 Stat. 662; June 4, 1920, c. 227, § 52.)

E. WAR OFFENSES.

§ 1977. Misbehavior before the enemy.—Any officer or soldier who, before the enemy, misbehaves himself, runs away, or shamefully abandons or delivers up or by any misconduct, disobedience, or neglect endangers the safety of any fort, post, camp, guard, or other command which it is his duty to defend, or speaks words inducing others to do the like, or casts away his arms or ammunition, or quits his post or colors to plunder or pillage, or by any means whatsoever occasions false alarms in camp, garrison, or quarters, shall suffer death or such other punishment as a court-martial may direct. (Art. 75, Acts April 10, 1806, c. 20, arts. 49, 52, 2 Stat. 365, 366; Aug. 29, 1916, c. 418, § 3, 39 Stat. 663; June 4, 1920, c. 227, § 52.)

§ 1978. Subordinates compelling commander to surrender.—Any person subject to military law who compels or attempts to compel any commander of any garrison, fort, post, camp, guard, or other command, to give it up to the enemy or to abandon it shall be punishable with death or such

other punishment as a court-martial may direct. (Art. 76; Acts April 10, 1806, c. 20, art. 59, 2 Stat. 366; Aug. 29, 1916, c. 418, § 3, 39 Stat. 663; June 4, 1920, c. 227, § 52.)

§ 1979. Improper use of countersign.—Any person subject to military law who makes known the parole or countersign to any person not entitled to receive it according to the rules and discipline of war, or gives a parole or countersign different from that which he received, shall, if the offense be committed in time of war, suffer death or such other punishment as a court-martial may direct. (Art. 77; Acts April 10, 1806, c. 20, art. 53, 2 Stat. 366; Aug. 29, 1916, c. 418, § 3, 39 Stat. 663; June 4, 1920, c. 227, § 52.)

§ 1980. Forcing a safeguard.—Any person subject to military law who, in time of war, forces a safeguard shall suffer death or such other punishment as a court-martial may direct. (Art. 78; Acts April 10, 1806, c. 20, art. 55, 2 Stat. 366; July 13, 1861, c. 3, § 5, 12 Stat. 257; July 31, 1861, c. 32, 12 Stat. 284; Feb. 13, 1862, c. 25, § 5, 12 Stat. 340; Aug. 29, 1916, c. 418, § 3, 39 Stat. 663; June 4, 1920, c. 227, § 52.)

§ 1981. Captured property to be secured for public service.—All public property taken from the enemy is the property of the United States and shall be secured for the service of the United States, and any person subject to military law who neglects to secure such property or is guilty of wrongful appropriation thereof shall be punished as a court-martial may direct. (Art. 79; Acts April 10, 1806, c. 20, art. 58, 2 Stat. 366; Aug. 29, 1916, c. 418, § 3, 39 Stat. 663; June 4, 1920, c. 227, § 52.)

§ 1982. Dealing in captured or abandoned property.—Any person subject to military law who buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he shall receive or expect any profit, benefit, or advantage to himself or to any other person directly or indirectly connected with himself, or who fails whenever such property comes into his possession or custody or within his control to give notice thereof to the proper authority and to turn over such property to the proper authority without delay shall, on conviction thereof, be punished by fine or imprisonment, or by such other punishment as a court-martial, military commission, or other military tribunal may adjudge, or by any or all of said penalties. (Art. 80; Acts Aug. 29, 1916, c. 418, § 3, 39 Stat. 663; June 4, 1920, c. 227, § 52.)

§ 1983. Relieving, corresponding with, or aiding the enemy.—Whosoever relieves or attempt to relieve the enemy with arms, ammunition, supplies, money, or other thing, or knowingly harbors or protects or holds correspondence with or gives intelligence to the enemy, either directly or indirectly, shall suffer death or such other punishment as a court-martial or military commission may direct. (Art. 81; Acts April 10, 1806, c. 20, arts. 56, 57, 2 Stat. 366; Aug. 29, 1916, c. 418, § 3, 39 Stat. 663; June 4, 1920, c. 227, § 52.)

§ 1984. Spies.—Any person who in time of war shall be found lurking or acting as a spy in or about any of the fortifications, posts, quarters, or encampments of any of the armies of the United States, or elsewhere, shall be tried by a general court-martial or by a military commission, and shall, on conviction thereof, suffer death. (Art. 82; R. S. § 1343; Acts April 10, 1806, c. 20, § 2, 2 Stat. 371; Feb. 13, 1862, c. 25, § 4, 12 Stat. 340; March 3, 1863, c. 75, § 38, 12 Stat. 737; Aug. 29, 1916, c. 418, § 3, 39 Stat. 663; June 4, 1920, c. 227, § 52.)

F. MISCELLANEOUS CRIMES AND OFFENSES.

§ 1985. Military property—Willful or negligent loss, damage, or wrongful disposition.—Any person subject to military law who willfully, or through neglect, suffers to be lost, spoiled, damaged, or wrongfully disposed of, any military property belonging to the United States shall make good the loss or damage and suffer such punishment as a court-martial may direct. (Art. 83; Acts April 10, 1806, c. 20, art. 36, 2 Stat. 364; March 2, 1863, c. 67, § 1, 12 Stat. 696; Aug. 29, 1916, c. 418, § 3, 39 Stat. 663; June 4, 1920, c. 227, § 52.)

§ 1986. Waste or unlawful disposition of military property issued to soldiers.—Any soldier who sells or wrongfully disposes of or willfully or through neglect injures or loses any horse, arms, ammunition, accoutrements, equipment, clothing, or other property issued for use in the military service, shall be punished as a court-martial may direct. (Art. 84; Acts April 10, 1806, c. 20, arts. 37, 38, 2 Stat. 364; Feb. 8, 1815, c. 38, § 7, 3 Stat. 204; July 27, 1892, c. 272, § 1, 27 Stat. 277; Aug. 29, 1916, c. 418, § 3, 39 Stat. 663; June 4, 1920, c. 227, § 52.)

§ 1987. Drunkenness on duty.—Any officer who is found drunk on duty shall, if the offense be committed in time of war, be dismissed from the service and suffer such other punishment as a court-martial may direct; and if the offense be committed in time of peace, he shall be punished as a court-martial may direct. Any person subject to military law, except an officer, who is found drunk on duty shall be punished as a court-martial may direct. (Art. 85; Acts April 10, 1806, c. 20, art. 45, 2 Stat. 365; Feb. 18, 1875, c. 80, § 1, 18 Stat. 318; Feb. 27, 1877, c. 69, § 1, 19 Stat. 244; Aug. 29, 1916, c. 418, § 3, 39 Stat. 663; June 4, 1920, c. 227, § 52.)

§ 1988. Misbehavior of sentinel.—Any sentinel who is found drunk or sleeping upon his post, or who leaves it before he is regularly relieved, shall, if the offense be committed in time of war, suffer death or such other punishment as a court-martial may direct; and if the offense be committed in time of peace, he shall suffer any punishment, except death, that a court-martial may direct. (Art. 86; Acts April 10, 1806, c. 20, art. 46, 2 Stat. 365; Aug. 29, 1916, c. 418, § 3, 39 Stat. 664; June 4, 1920, c. 227, § 52.)

§ 1989. Personal interest in sale of provisions.—Any officer commanding in any garrison, fort, barracks, camp, or other place where troops of the United States may be serving who, for his private advantage lays any duty or imposition upon or is interested in the sale of any victuals or other necessities of life brought into such garrison, fort, barracks, camp, or other place for the use of the troops, shall be dismissed from the service and suffer such other punishment as a court-martial may direct. (Art. 87; Acts April 10, 1806, c. 20, Art. 31, 2 Stat. 363; Aug. 29, 1916, c. 418, § 3, 39 Stat. 664; June 4, 1920, c. 227, § 52.)

§ 1990. Intimidation of persons bringing provisions.—Any person subject to military law who abuses, intimidates, does violence to, or wrongfully interferes with any person bringing provisions, supplies, or other necessities to the camp, garrison, or quarters of the forces of the United States shall suffer such punishment as a court-martial may direct. (Art. 88; Acts April 10, 1806, c. 20, art. 51, 2 Stat. 365; Aug. 29, 1916, c. 418, § 3, 39 Stat. 664; June 4, 1920, c. 227, § 52.)

§ 1991. Good order to be maintained and wrong redressed.—All persons subject to military law are to behave themselves orderly in quarters, garrison, camp, and on the march; and any person subject to military law who commits any waste or spoil, or willfully destroys any property whatsoever (unless by order of his commanding officer), or commits any kind of depredation or riot, shall be punished as a court-martial may direct. Any commanding officer who, upon complaint made to him, refuses or omits to see reparation made to the party injured, in so far as the offender's pay shall go toward such reparation, as provided for in article 105, shall be dismissed from the service, or otherwise punished, as a court-martial may direct. (Art. 89; Acts April 10, 1806, c. 20, arts. 32, 54, 2 Stat. 313, 366; Aug. 29, 1916, c. 418, § 3, 39 Stat. 664; June 4, 1920, c. 227, § 52.)

§ 1992. Provoking speeches or gestures.—No person subject to military law shall use any reproachful or provoking speeches or gestures to another; and any person subject to military law who offends against the provisions of this article shall be punished as a court-martial may direct. (Art. 90; Acts April 10, 1806, c. 20, art. 24, 2 Stat. 363; Aug. 29, 1916, c. 418, § 3, 39 Stat. 664; June 4, 1920, c. 227, § 52.)

§ 1993. Dueling.—Any person subject to military law who fights or promotes or is concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the fact

promptly to the proper authority, shall, if an officer, be dismissed from the service or suffer such other punishment as a court-martial may direct; and if any other person subject to military law, shall suffer such punishment as a court-martial may direct. (Art. 91; Acts April 10, 1806, c. 20, arts. 25, 26, 28, 2 Stat. 363; Feb. 27, 1877, c. 69, § 1, 19 Stat. 244; Aug. 29, 1916, c. 418, § 3, 39 Stat. 664; June 4, 1920, c. 227, § 52.)

§ 1994. Murder; rape.—Any person subject to military law who commits murder or rape shall suffer death or imprisonment for life, as a court-martial may direct; but no person shall be tried by court-martial for murder or rape committed within the geographical limits of the States of the Union and the District of Columbia in time of peace. (Art. 92; Acts July 13, 1861, c. 3, § 5, 12 Stat. 257; July 31, 1861, c. 32, 12 Stat. 284; March 3, 1863, c. 75, § 30, 12 Stat. 736; Aug. 29, 1916, c. 418, § 3, 39 Stat. 664; June 4, 1920, c. 227, § 52.)

§ 1995. Various crimes.—Any person subject to military law who commits manslaughter, mayhem, arson, burglary, housebreaking, robbery, larceny, embezzlement, perjury, forgery, sodomy, assault with intent to commit any felony, assault with intent to do bodily harm with a dangerous weapon, instrument, or other thing, or assault with intent to do bodily harm, shall be punished as a court-martial may direct. (Art. 93; Acts July 13, 1861, c. 3, § 5, 12 Stat. 257; July 31, 1861, c. 32, 12 Stat. 284; March 3, 1863, c. 75, § 30, 12 Stat. 736; Aug. 29, 1916, c. 418, § 3, 39 Stat. 664; June 4, 1920, c. 227, § 52.)

§ 1996. Frauds against the Government.—Any person subject to military law who makes or causes to be made any claim against the United States or any officer thereof, knowing such claim to be false or fraudulent; or

Who presents or causes to be presented to any person in the civil or military service thereof, for approval or payment, any claim against the United States, or any officer thereof, knowing such claim to be false or fraudulent; or

Who enters into any agreement or conspiracy to defraud the United States by obtaining, or aiding others to obtain, the allowance or payment of any false or fraudulent claim; or

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or against any officer thereof, makes or uses, or procures, or advises the making or use of, any writing or other paper knowing the same to contain any false or fraudulent statements; or

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or any officer thereof, makes or procures, or advises the making of any oath to any fact or to any writing or other paper knowing such oath to be false; or

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or any officer thereof, forges or counterfeits, or procures, or advises the forging or counterfeiting of any signature upon any writing or other paper, or uses, or procures, or advises the use of any such signature, knowing the same to be forged or counterfeited; or

Who, having charge, possession, custody, or control of any money or other property of the United States, furnished or intended for the military service thereof, knowingly delivers, or causes to be delivered, to any person having authority to receive the same, any amount thereof less than that for which he receives a certificate or receipt; or

Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States furnished or intended for the military service thereof, makes or delivers to any person such writing, without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States; or

Who steals, embezzles, knowingly and willfully misappropriates, applies to his own use or benefit, or wrongfully or knowingly sells or disposes of any ordnance, arms, equipments, ammunition, clothing, subsistence stores, money, or other property of the United States furnished or intended for the military service thereof; or

Who knowingly purchases or receives in pledge for any obligation or indebtedness from any soldier, officer, or other person who is a part of or employed in said forces or service, any ordnance, arms, equipment, ammunition, clothing, subsistence stores, or other property of the United States, such soldier, officer, or other person not having lawful right to sell or pledge the same;

Shall, on conviction thereof, be punished by fine or imprisonment, or by such other punishment as a court-martial may adjudge, or by any or all of said penalties. And if any person, being guilty of any of the offenses aforesaid while in the military service of the United States, receives his discharge or is dismissed from the service, he shall continue to be liable to be arrested and held for trial and sentence by a court-martial in the same manner and to the same extent as if he had not received such discharge nor been dismissed. And if any officer, being guilty, while in the military service of the United States, of embezzlement of ration savings, post exchange, company, or other like funds, or of embezzlement of money or other property intrusted to his charge by an enlisted man or men, receives his discharge, or is dismissed, or is dropped from the rolls, he shall continue to be liable to be arrested and held for trial and sentence by a court-martial in the same manner and to the same extent as if he had not been so discharged, dismissed, or dropped from the roll. (Art. 94; Acts March 2, 1863, c. 67, § 1, 12 Stat. 696; March 2, 1901, c. 809, § 5, 31 Stat. 951; Aug. 29, 1916, c. 418, § 3, 39 Stat. 665; June 4, 1920, c. 227, § 52.)

§ 1997. Conduct unbecoming an officer and gentleman.—Any officer or cadet who is convicted of conduct unbecoming an officer and a gentleman shall be dismissed from the service. (Art. 95; Acts April 10, 1806, c. 20, art. 83, 2 Stat. 369; Aug. 29, 1916, c. 418, § 3, 39 Stat. 666; June 4, 1920, c. 227, § 52.)

§ 1998. General article.—Though not mentioned in these articles, all disorders and neglects to the prejudice of good order and military discipline, all conduct of a nature to bring discredit upon the military service, and all crimes or offenses not capital, of which persons subject to military law may be guilty, shall be taken cognizance of by a general or special or summary court-martial, according to the nature and degree of the offense, and punished at the discretion of such court. (Art. 96; Act April 10, 1806, c. 20, art. 90, 2 Stat. 371; Aug. 29, 1916, c. 418, § 3, 39 Stat. 666; June 4, 1920, c. 227, § 52.)

IV. COURTS OF INQUIRY.

§ 1999. When and by whom ordered.—A court of inquiry to examine into the nature of any transaction of or accusation or imputation against any officer or soldier may be ordered by the President or by any commanding officer; but a court of inquiry shall not be ordered by any commanding officer except upon the request of the officer or soldier whose conduct is to be inquired into. (Art. 97; Acts April 10, 1806, c. 20, arts. 91, 92, 2 Stat. 370; Aug. 29, 1916, c. 418, § 3, 39 Stat. 666; June 4, 1920, c. 227, § 52.)

§ 2000. Composition.—A court of inquiry shall consist of three or more officers. For each court of inquiry the authority appointing the court shall appoint a recorder. (Art. 98; Acts April 10, 1806, c. 20, Art. 91, 2 Stat. 370; Aug. 29, 1916, c. 418, § 3, 39 Stat. 666; June 4, 1920, c. 227, § 52.)

§ 2001. Challenges.—Members of a court of inquiry may be challenged by the party whose conduct is to be inquired into, but only for cause stated to the court. The court shall determine the relevancy and validity of any challenge, and shall not receive a challenge to more than one member at a time. The party whose conduct is being inquired into shall have the right to be represented before the court by counsel of his own selection, if such counsel be reasonably available. (Art. 99; Acts Aug. 29, 1916, c. 418, § 3, 39 Stat. 666; June 4, 1920, c. 227, § 52.)

§ 2002. Oath of members and recorders.—The recorder of a court of inquiry shall administer to the members the following oath: "You, A. B., do swear (or affirm) that you will well and truly examine and inquire, according to the evidence, into the matter now before you without partiality,

favor, affection, prejudice, or hope of reward. So help you God." After which the president of the court shall administer to the recorder the following oath: "You, A. B., do swear (or affirm) that you will, according to your best abilities, accurately and impartially record the proceedings of the court and the evidence to be given in the case in hearing. So help you God."

In case of affirmation the closing sentence of adjuration will be omitted. (Art. 100; Acts April 10, 1806, c. 20, Art. 93, 2 Stat. 370; Aug. 29, 1916, c. 418, § 3, 39 Stat. 666; June 4, 1920, c. 227, § 52.)

§ 2003. Powers; procedure.—A court of inquiry and the recorder thereof shall have the same power to summon and examine witnesses as is given to courts-martial and the trial judge advocate thereof. Such witnesses shall take the same oath or affirmation that is taken by witnesses before courts-martial. A reporter or an interpreter for a court of inquiry shall, before entering upon his duties, take the oath or affirmation required of a reporter or an interpreter for a court-martial. The party whose conduct is being inquired into or his counsel, if any, shall be permitted to examine and cross-examine witnesses so as fully to investigate the circumstances in question. (Art. 101; Acts April 10, 1806, c. 20, Arts. 91, 93, 2 Stat. 370; March 3, 1863, c. 75, § 27, 12 Stat. 736; March 3, 1863, c. 79, § 25, 12 Stat. 754; Aug. 29, 1916, c. 418, § 3, 39 Stat. 666; June 4, 1920, c. 227, § 52.)

§ 2004. Opinion on merits of case.—A court of inquiry shall not give an opinion on the merits of the case inquired into unless specially ordered to do so. (Art. 102; Acts April 10, 1806, c. 20, art. 91, 2 Stat. 370; Aug. 29, 1916, c. 418, § 3, 39 Stat. 666; June 4, 1920, c. 227, § 52.)

§ 2005. Record of proceedings; how authenticated.—Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signature of the president and the recorder thereof, and be forwarded to the convening authority. In case the record cannot be authenticated by the recorder, by reason of his death, disability, or absence, it shall be signed by the president and by one other member of the court. (Art. 103; Acts April 10, 1806, c. 20, Art. 92, 2 Stat. 370; Aug. 29, 1916, c. 418, § 3, 39 Stat. 666; June 4, 1920, c. 227, § 52.)

V. MISCELLANEOUS PROVISIONS.

§ 2006. Disciplinary powers of commanding officers.—Under such regulations as the President may prescribe, the commanding officer of any detachment, company, or higher command may, for minor offenses impose disciplinary punishments upon persons of his command without the intervention of a court-martial, unless the accused demands trial by court-martial.

The disciplinary punishments authorized by this article may include admonition, reprimand, withholding of privileges for not exceeding one week, extra fatigue for not exceeding one week, restriction to certain specified limits for not exceeding one week, and hard labor without confinement for not exceeding one week, but shall not include forfeiture of pay or confinement under guard; except that in time of war or grave public emergency a commanding officer of the grade of brigadier general or of higher grade may, under the provisions of this article also impose upon an officer of his command below the grade of major a forfeiture of not more than one-half of such officer's monthly pay for one month. A person punished under authority of this article, who deems his punishment unjust or disproportionate to the offense, may, through the proper channel, appeal to the next superior authority, but may in the meantime be required to undergo the punishment adjudged. The commanding officer who imposes the punishment, his successor in command, and superior authority shall have power to mitigate or remit any unexecuted portion of the punishment. The imposition and enforcement of disciplinary punishment under authority of this article for any act or omission shall not be a bar to trial by court-martial for a crime or offense growing out of the same act or omission; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty. (Art. 104; Acts Aug. 29, 1916, c. 418, § 3, 39 Stat. 667; June 4, 1920, c. 227, § 52.)

§ 2007. Injuries to property; redress.—Whenever complaint is made to any commanding officer that damage has been done to the property of any person or that his property has been wrongfully taken by persons subject to military law, such complaint shall be investigated by a board consisting of any number of officers from one to three, which board shall be convened by the commanding officer and shall have, for the purpose of such investigation, power to summon witnesses and examine them upon oath or affirmation, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by such board shall be subject to the approval of the commanding officer, and in the amount approved by him shall be stopped against the pay of the offenders. And the order of such commanding officer directing stoppages herein authorized shall be conclusive on any disbursing officer for the payment by him to the injured parties of the stoppages so ordered.

Where the offenders can not be ascertained, but the organization or detachment to which they belong is known, stoppages to the amount of damages inflicted may be made and assessed in such proportion as may be deemed just upon the individual members thereof who are shown to have been present with such organization or detachment at the time the damages complained of were inflicted as determined by the approved findings of the board. (Art. 105; Acts Aug. 29, 1916, c. 418, § 3, 39 Stat. 667; June 4, 1920, c. 227, § 52.)

§ 2008. Arrest of deserters by civil officials.—It shall be lawful for any civil officer having authority under the laws of the United States, or of any State, Territory, District, or possession of the United States, to arrest offenders, summarily to arrest a deserter from the military service of the United States and deliver him into custody of the military authorities of the United States. (Art. 106; Acts Aug. 29, 1916, c. 418, § 3, 39 Stat. 667; June 4, 1920, c. 227, § 52.)

§ 2009. Soldiers to make good time lost.—Every soldier who in an existing or subsequent enlistment deserts the service of the United States or without proper authority absents himself from his organization, station, or duty for more than one day, or who is confined for more than one day under sentence, or while awaiting trial and disposition of his case, if the trial results in conviction, or through the intemperate use of drugs or alcoholic liquor, or through disease or injury the result of his own misconduct, renders himself unable for more than one day to perform duty, shall be liable to serve, after his return to a full-duty status, for such period as shall with the time he may have served prior to such desertion, unauthorized absence, confinement, or inability to perform duty, amount to the full term of that part of his enlistment period which he is required to serve with his organization before being furloughed to the Army reserve. (Art. 107; Acts Jan. 11, 1812, c. 14, § 16, 2 Stat. 673; Jan. 29, 1913, c. 16, § 12, 2 Stat. 796; Aug. 29, 1916, c. 418, § 3, 39 Stat. 667; June 4, 1920, c. 227, § 52.)

§ 2010. Soldiers; separation from service.—No enlisted man, lawfully inducted into the military service of the United States, shall be discharged from said service without a certificate of discharge, signed by a field officer of the regiment or other organization to which the enlisted man belongs or by the commanding officer when no such field officer is present; and no enlisted man shall be discharged from said service before his term of service has expired, except by order of the President, the Secretary of War, the commanding officer of a department, or by sentence of a general court-martial. (Art. 108; Acts April 10, 1806, c. 20, Art. 11, 2 Stat. 361; Aug. 29, 1916, c. 418, § 3, 39 Stat. 668; June 4, 1920, c. 227, § 52.)

§ 2011. Oath of enlistment.—At the time of his enlistment every soldier shall take the following oath or affirmation: "I, _____, do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America; that I will serve them honestly and faithfully against all their enemies whomsoever; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to the Rules and Articles of War." This oath or

affirmation may be taken before any officer. (Art. 109; Acts April 10, 1806, c. 20, Art. 10, 2 Stat. 361; Jan. 29, 1813, c. 16, § 13, 2 Stat. 796; Aug. 3, 1861, c. 42, § 11, 12 Stat. 289; Aug. 29, 1916, c. 418, § 3, 39 Stat. 668; June 4, 1920, c. 227, § 52.)

§ 2012. Certain articles to be read and explained.—Articles 1, 2, and 29, 54 to 96, inclusive, and 104 to 109, inclusive, shall be read and explained to every soldier at the time of his enlistment or muster in, or within six days thereafter, and shall be read and explained once every six months to the soldiers of every garrison, regiment, or company in the service of the United States.

§ 2013. Copy of record of trial.—Every person tried by a general court-martial shall, on demand therefor, made by himself or by any person in his behalf, be entitled to a copy of the record of the trial. (Art. 111; Acts April 10, 1806, c. 20, Art. 90, 2 Stat. 370; Aug. 29, 1916, c. 418, § 3, 39 Stat. 668; June 4, 1920, c. 227, § 52.)

§ 2014. Disposition of effects of deceased persons.—In case of the death of any person subject to military law the commanding officer of the place of command will permit the legal representative or widow of the deceased, if present, to take possession of all his effects then in camp or quarters; and if no legal representative or widow be present, the commanding officer shall direct a summary court to secure all such effects, and said summary court shall have authority to collect and receive any debts due decedent's estate by local debtors and to pay the undisputed local creditors of decedent in so far as any money belonging to the deceased which may come into said summary court's possession under this article will permit, taking receipts therefor for file with said court's final report upon its transactions to the War Department; and as soon as practicable after the collection of such effects said summary court shall transmit such effects and any money collected, through the Quartermaster Department, at Government expense, to the widow or legal representative of the deceased, if such be found by said court, or to the son, daughter, father, provided the father has not abandoned the support of his family, mother, brother, sister, or the next of kin in the order named, if such be found by said court, or the beneficiary named in the will of the deceased, if such be found by said court, and said court shall thereupon make to the War Department a full report of its transactions; but if there be none of the persons hereinabove named, or such persons or their addresses are not known to or readily ascertainable by said court, and the said court shall so find, said summary court shall have authority to convert into cash, by public or private sale, not earlier than thirty days after the death of the deceased, all effects of deceased except sabers, insignia, decorations, medals, watches, trinkets, manuscripts, and other articles valuable chiefly as keepsakes; and as soon as practicable after converting such effects into cash said summary court shall deposit with the proper officer, to be designated in regulations, any cash belonging to decedent's estate, and shall transmit a receipt for such deposits, any will or other papers of value belonging to the deceased, any sabers, insignia, decorations, medals, watches, trinkets, manuscripts, and other articles valuable chiefly as keepsakes, together with an inventory of the effects secured by said summary court, and a full account of its transactions, to the War Department for transmission to the Auditor for the War Department for action as authorized by law in the settlement of accounts of deceased officers and enlisted men of the Army.

The provisions of this article shall be applicable to inmates of the United States Soldiers' Home, who die in any United States military hospital outside of the District of Columbia where sent from the home for treatment. (Art. 112; Acts April 10, 1806, c. 20, Arts. 94, 95, 2 Stat. 370, 371; Aug. 29, 1916, c. 418, § 3, 39 Stat. 668; July 9, 1918, c. 143, X, 40 Stat.; Nov. 19, 1919, c. 112, § 1; June 4, 1920, c. 227, § 52.)

§ 2015. Inquests.—When at any post, fort, camp, or other place garrisoned by the military forces of the United States and under the exclusive jurisdiction of the United States, any person shall have been found dead under circumstances which appear to require investigation, the commanding officer

will designate and direct a summary court-martial to investigate the circumstances attending the death; and, for this purpose, such summary court-martial shall have power to summon witnesses and examine them upon oath or affirmation. He shall promptly transmit to the post or other commander a report of his investigation and of his findings as to the cause of the death. (Art. 113; Acts Aug. 29, 1916, c. 418, § 3, 39 Stat. 669; June 4, 1920, c. 227, § 52.)

§ 2016. Authority to administer oaths.—Any judge advocate or acting judge advocate, the president of a general or special court-martial, any summary court-martial the trial judge advocate or any assistant trial judge advocate of a general or special court-martial, the president or the recorder of a court of inquiry or of a military board, any officer designated to take a deposition, any officer detailed to conduct an investigation, and the adjutant of any command shall have power to administer oaths for the purposes of the administration of military justice and for other purposes of military administration; and in foreign places where the Army may be serving shall have the general powers of a notary public or of a consul of the United States in the administration of oaths, the execution and acknowledgment of legal instruments, the attestation of documents, and all other forms of notarial acts to be executed by persons subject to military law. (Art. 114; Acts July 27, 1892, c. 272, § 4, 27 Stat. 278; Aug. 29, 1916, c. 418, § 3, 39 Stat. 669; June 4, 1920, c. 227, § 52.)

§ 2017. Appointment of reporters and interpreters.—Under such regulations as the Secretary of War may from time to time prescribe, the president of a court-martial or military commission or a court of inquiry shall have power to appoint a reporter, who shall record the proceedings of and testimony taken before such court or commission and may set down the same, in the first instance, in shorthand. Under like regulations the president of a court-martial or military commission, or court of inquiry, or a summary court, may appoint an interpreter, who shall interpret for the court or commission. (Art. 115; R. S. § 1203; Acts March 3, 1863, c. 75, § 28, 12 Stat. 736; Aug. 29, 1916, c. 418, § 3, 39 Stat. 669; June 4, 1920, c. 227, § 52.)

§ 2018. Powers of assistant trial judge advocate and of assistant defense counsel.—An assistant trial judge advocate of a general court-martial shall be competent to perform any duty devolved by law, regulation, or the custom of the service upon the trial judge advocate of the court. An assistant defense counsel shall be competent likewise to perform any duty devolved by law, regulation, or the custom of the service upon counsel for the accused. (Art. 116; Acts Aug. 29, 1916, c. 418, § 3, 39 Stat. 669; June 4, 1920, c. 227, § 52.)

§ 2019. Removal of civil suits.—When any civil or criminal prosecution is commenced in any court of a State against any officer, soldier, or other person in the military service of the United States on account of any act done under color of his office or status, or in respect to which he claims any right, title, or authority under any law of the United States respecting the military forces thereof, or under the law of war, such suit or prosecution may at any time before the trial or final hearing thereof be removed for trial into the district court of the United States in the district where the same is pending in the manner prescribed in section 33 of the Act entitled "An Act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, and the cause shall thereupon be entered on the docket of said district court and shall proceed therein as if the cause had been originally commenced in said district court and the same proceedings had been taken in such suit or prosecution in said district court as shall have been had therein in said State court prior to its removal, and said district court shall have full power to hear and determine said cause. (Art. 117; Acts Aug. 29, 1916, c. 418, § 3, 39 Stat. 669; June 4, 1920, c. 227, § 52.)

§ 2020. Officers; separation from service.—No officer shall be discharged or dismissed from the service except by order of the President or by sentence of a general court-martial; and in time of peace no officer shall

be dismissed except in pursuance of the sentence of a general court-martial or in mitigation thereof; but the President may at any time drop from the rolls of the Army any officer who has been absent from duty three months without leave or who has been absent in confinement in a prison or penitentiary for three months after final conviction by a court of competent jurisdiction. (Art. 118; Acts April 10, 1806, c. 20, Art. 11, 2 Stat. 361; July 13, 1866, c. 176, § 5, 14 Stat. 92; Aug. 29, 1916, c. 418, § 3, 39 Stat. 669; June 4, 1920, c. 227, § 52.)

§ 2021. Rank and precedence among Regulars, Militia, and Volunteers.—That in time of war or public danger, when two or more officers of the same grade are on duty in the same field, department or command, or of organizations thereof, the President may assign the command of the forces of such field, department, or command, or of any organization thereof, without regard to seniority of rank in the same grade. (Art. 119; Acts April 10, 1806, c. 20, Art. 98, 2 Stat. 371; March 2, 1867, c. 159, § 2, 14 Stat. 435; March 8, 1910, c. 88, § 1, 36 Stat. 234; Aug. 29, 1916, c. 418, § 3, 39 Stat. 670; June 4, 1920, c. 227, § 52.)

§ 2022. Command when different corps or commands happen to join.—When different corps or commands of the military forces of the United States happen to join or do duty together, the officer highest in rank of the line of the Regular Army, Marine Corps, forces drafted or called into the service of the United States, or Volunteers, there on duty, shall, subject to the provisions of the last preceding article, command the whole and give orders for what is needful in the service, unless otherwise directed by the President. (Art. 120; Acts April 10, 1806, c. 20, Art. 62, 2 Stat. 367; March 8, 1910, c. 88, § 1, 36 Stat. 234; Aug. 29, 1916, c. 418, § 3, 39 Stat. 670; June 4, 1920, c. 227, § 52.)

§ 2023. Complaints of wrongs.—Any officer or soldier who believes himself wronged by his commanding officer, and, upon due application to such commander, is refused redress, may complain to the general commanding in the locality where the officer against whom the complaint is made is stationed. The general shall examine into said complaint and take proper measures for redressing the wrong complained of; and he shall, as soon as possible, transmit to the Department of War a true statement of such complaint, with the proceedings had thereon. (Art. 121; Acts April 10, 1806, c. 20, Arts. 34, 35, 2 Stat. 364; Aug. 29, 1916, c. 418, § 3, 39 Stat. 670; June 4, 1920, c. 227, § 52.)

§ 2024. Time of taking effect of Articles of War.—That the provisions of Chapter II of this Act shall take effect and be in force eight months after the approval of this Act: Provided, That articles 2, 23, and 45 shall take effect immediately. (Acts Aug. 29, c. 418, § 4, 39 Stat. 670; June 4, 1920, c. 227, § 52.)

§ 2025. Prior offenses.—That all offenses committed and all penalties, forfeitures, fines, or liabilities incurred prior to the taking effect of Chapter II of this Act, under any law embraced in or modified, changed, or repealed by Chapter II of this Act, may be prosecuted, punished, and enforced in the same manner and with the same effect as if this Act had not been passed. (Acts Aug. 29, 1916, c. 418, § 5, 39 Stat. 670; June 4, 1920, c. 227, § 52.)

§ 2025a. Repeal of laws.—That section 1342 of the Revised Statutes of the United States be, and the same is hereby, repealed, and all laws and parts of laws in so far as they are inconsistent with this Act are hereby repealed. (Act June 4, 1920, c. 227, § 52.)

TITLE XVII.

THE NAVY.

CHAPTER 1.

ORGANIZATION.

§ 2051a. Permanent appointments of officers holding temporary commissions.—That officers holding temporary commissioned and warrant ranks in the Navy and members of the Naval Reserve Force of commissioned and warrant ranks shall be eligible for transfer to an appointment in the permanent grades or ranks in the Navy for which they may be found qualified not above that held by them on the date of transfer, but not to exceed a total of one thousand two hundred commissioned officers in the line, of which number five hundred may be appointed from class five, Naval Reserve Flying Corps, with proportionate number in all Staff Corps as now authorized by law, except that the Medical, Dental, and Supply Corps shall be entitled to such additional numbers as are necessary to make up the full quota of officers in those corps, as now authorized by law: Provided, That officers so appointed to the line of the Navy shall take rank in accordance with their precedence while holding temporary rank, and members of the Naval Reserve Force of commissioned and warrant ranks found qualified for a given rank shall be arranged according to their precedence among themselves and commissioned in the permanent service next after the lowest temporary officer who qualifies for the same rank and is appointed in accordance with the provisions of this Act.

Provided further, That included in the number of transfers and appointments hereinbefore allowed, commissioned officers of the Coast Guard, who have served creditably under the Navy Department in the War with the German Government, upon suitable application approved by the Secretary of the Navy and the Secretary of the Treasury, may be appointed to a permanent rank or grade in the Navy for which found qualified by a board of naval officers under the provisions of existing law, but not above the rank of lieutenant commander, and shall take such precedence therein as the Secretary of the Navy may determine: Provided further, That for the purposes of computing longevity pay and retirement privileges of officers and enlisted men of the Navy, all creditable service in the Coast Guard and former Revenue-Cutter Service shall be counted. (Act June 4, 1920, c. 228, § 3.)

§ 2051b. Permanent appointment of warrant officers; rank and precedence of officers.—In addition to the number of transfers and appointments hereinbefore allowed, commissioned warrant officers of more than fifteen years' service since date of warrant or date of first appointment as paymaster's clerk, pharmacist or mate, who have creditably served in the war with the German Government in temporary commissioned ranks or grades in the regular Navy, shall be appointed to a permanent rank or grade for which they may be qualified as established and shown by their records of service during their term of service not above the temporary rank or grade held by them at the time of transfer: Provided, That officers so transferred to the line of the Navy shall take rank therein in accordance with their precedence while holding temporary rank: Provided further, That all officers so transferred in accordance with section 3 and 4 of this Act to the staff corps of the Navy shall take precedence with each other and with other officers in the Navy in such order as may be recommended by a board of naval officers and approved by the Secretary of the Navy: Provided further, That no transfers or appointments made in accordance with sections 3 and 4 of this Act shall be to a higher grade or rank than lieutenant in the Navy: And provided further, That officers appointed to the permanent Navy in accordance with the foregoing sections who now

hold permanent warrant or permanent commissioned warrant rank in the United States Navy shall, if they thereafter fail professionally on examination for promotion, revert to such permanent warrant or permanent commissioned warrant status. (Act June 4, 1920, c. 228, § 4.)

§ 2051c. Age limit of appointees; promotions.—That officers appointed under any of the foregoing provisions shall be not more than thirty-five years of age when so appointed to the line of the Navy, Construction Corps, or Supply Corps, and not more than forty-three years of age when so appointed to the Corps of Chaplains, or to the Medical, Dental, or Civil Engineering Corps: Provided, That said age limits shall be increased in the cases of officers who have rendered prior service as paymaster's clerks, or as mates, or as warrant or commissioned officers in the naval service to the extent of all prior naval service: Provided further, That officers originally appointed to the Dental Corps above the said age limits shall be eligible for appointment and promotion under this Act irrespective of age: And provided further, That officers of the line of the Navy who are appointed thereto pursuant to this Act from sources other than the Naval Academy shall not be ineligible for promotion by reason of age as prescribed by the Act of August 29, 1916 (Thirty-ninth Statutes, page 579), until they have rendered ten years' service in the grade of lieutenant commander, six years' service in the grade of commander, or eight years' service in the grade of captain, respectively, upon the completion of which service such officers, if then ineligible for promotion by reason of age, shall be retired in accordance with said Act: And provided further, That until June 30, 1923, promotions to lieutenant (junior grade) and lieutenant may be made without regard to length of service: And provided further, That until June 30, 1923, officers of the permanent Navy who have served satisfactorily during the war with the German Government in a temporary grade or rank shall be eligible under the provisions of existing law for selection for promotion or for promotion to the same permanent grade or rank without regard to statutory requirement other than age and professional and physical examination: And provided further, That in making reductions in rank as may be required by this Act, officers holding temporary appointments may be given temporary appointments in lower grades, and officers so appointed shall take precedence from the dates of their original appointments in such lower grades. (Act June 4, 1920, c. 228, § 5.)

§ 2065. Pay corps.

Note.—Act July 11, 1919, c. 9, § 1, provides that "hereafter the Pay Corps shall be called the Supply Corps."

§ 2080a. Pay of warrant officers on shore duty abroad.—Warrant officers of the Navy on shore duty beyond the continental limits of the United States shall, while so serving and from the time of departure from and until the time of return to said limits under orders to or from such foreign-shore duty, receive the same pay as is now or may be authorized by law for warrant officers on sea duty: Provided, That this paragraph shall be effective from April 6, 1917. (Acts July 11, 1919, c. 9, § 1.)

§ 2091a. Authorized enlisted strength.—The total authorized enlisted strength of the active list of the Navy is hereby temporarily increased from 131,485 during the period from July 1, 1919, to September 30, 1919, to 241,000 men, and from October 1, 1919, to December 31, 1919, to 191,000 men, and from January 1, 1920, to June 30, 1920, to 170,000 men and the President is hereby authorized, whenever in his judgment a sufficient national emergency exists, to increase the authorized enlisted strength of the Navy to 191,000 men, and the Secretary of the Navy is hereby authorized to call to or continue on active service on strictly naval duties, with their consent, such numbers of the male members and nurses of the Naval Reserve Force in enlisted ratings as may be necessary to supply deficiencies to maintain the total authorized strength for the periods herein authorized. The foregoing total authorized strength shall include the hospital corps, apprentice seamen, those sentenced by court-martial to discharge, enlisted men of the Flying Corps, those under instruction in trade schools, and members of the Naval Reserve Force so serving. That during the fiscal year ending

June 30, 1920, no member of the Naval Reserve Force shall be recalled to active duty for training or any other purpose except as hereinbefore provided: Provided, That the average number of commissioned officers of the line, permanent, temporary, and reserves on active duty, shall not exceed during the periods aforesaid, 4 per centum of the total temporary authorized enlisted strength of the Regular and Temporary Navy, and members of the Naval Reserve Force in enlisted rating on active duty, and the number of staff officers shall be in the same proportion as provided under existing law: Provided further, That nothing herein shall be construed as affecting the permanent, commissioned, or enlisted strength of the Regular Navy as authorized by existing law. (Acts July 11, 1919, c. 9, § 1.)

§ 2091b. Employment of members of Naval Reserve Force on active duty.—The Secretary of the Navy is hereby authorized to employ on active duty, with their own consent, members of the Naval Reserve Force in enlisted ratings, the number so employed not to exceed during any fiscal year the average of twenty thousand men: Provided, That the number of naval reservists, so employed on active duty, together with the total number of enlisted men in the Regular Navy, shall not exceed the total enlisted strength of the Navy as authorized by law: Provided further, That such members of the Naval Reserve Force so employed shall serve on active duty for not less than twelve nor more than eighteen months unless sooner released: Provided further, That hereafter no person shall be enrolled in the Naval Reserve Force except for general service: And provided further, That the number of commissioned officers of the line, permanent, temporary, and reserve on active duty shall not exceed 4 per centum of the total authorized enlisted strength of the Regular Navy, and the number of staff officers on active duty of whatever kind shall be in the same proportions as authorized by existing law: Provided further, That five hundred reserve officers are also authorized to be employed in the aviation and auxiliary service: And provided further, That, until December 31, 1921, temporary appointments now existing may be continued in force in any grade or rank, not to exceed the number allowed in any grade or rank based upon the total permanent authorized commissioned strength of the line or of any staff corps; and, within the limitations herein prescribed, officers of the Naval Reserve Force may, with their own consent, be continued on active duty ashore or afloat, including three on shore duty in the Historical Section of the Office of Naval Intelligence, who may be retained on active duty beyond the age of disenrollment but not beyond June 30, 1922: And provided further, That nothing herein shall be construed as reducing the permanent commissioned or enlisted strength of the Regular Navy as authorized by existing law. (Act June 4, 1920, c. 228, § 2.)

§ 2092. Term of enlistment.

* **Note.**—Act July 11, 1919, c. 9, § 1, provides that "until June 30, 1920, enlistments in the Navy may be for terms of two, three or four years, and all laws now applicable to four-year enlistments shall apply, under such regulations as may be prescribed by the Secretary of the Navy, to enlistments for a shorter period with proportionate benefits upon discharge and reenlistment."

§ 2092a. Change of term of enlistment.—Hereafter enlistments in the Navy and in the Marine Corps may be for terms of two, three, or four years, and all laws now applicable to four-year enlistments shall apply, under such regulations as may be prescribed by the Secretary of the Navy, to enlistments for a shorter period with proportionate benefits upon discharge and reenlistment: Provided, That hereafter the Secretary of the Navy is authorized, in his discretion, to establish such grades and ratings as may be necessary for the proper administration of the enlisted personnel of the Navy and Marine Corps. (Act June 4, 1920, c. 228, § 7.)

CHAPTER 2.

GENERAL PROVISIONS RELATING TO OFFICERS.

§ 2123a. Detail of naval officers to assist South American Governments.—The President of the United States be, and he is hereby, authorized, upon application from the foreign Governments concerned, and whenever in his

discretion the public interests require, to detail officers of the United States naval service to assist the Governments of the Republics of South America in naval matters: Provided, That the officers so detailed be, and they are hereby, authorized to accept offices from the Government to which detailed with such compensation and emoluments therefor as may be first approved by the Secretary of the Navy: Provided further, That while so detailed such officers shall receive, in addition to the compensation and emoluments allowed them by such Governments, the pay and allowances of their rank in the United States naval service, and they shall be entitled to the same credit while so detailed for longevity, retirement, and for all other purposes that they would receive if they were serving with the United States naval service. (Act June 5, 1920, c. 26.)

CHAPTER 3.

RETIRED OFFICERS AND MEN OF THE NAVY.

§ 2164a. **Computation of service for pay and retirement.**—Any enlisted man of the Navy or Marine Corps who has been or may be discharged to enable him to accept appointment as a commissioned or warrant officer in the Naval Reserve Force or Marine Corps Reserve, and who reenlists in the Navy or Marine Corps after the termination of his reserve service, shall be entitled, in computing service for retirement, to credit for all active reserve service; and if he reenlists in the Navy or Marine Corps within four or three months, respectively, from the date of the termination of his service as an officer of the Reserve he shall be restored to the grade or rank held by him before being discharged to accept such commission or warrant, and his service in the Regular Navy or Marine Corps, including his active service in the Naval Reserve Force or Marine Corps Reserve, shall be regarded as continuous for purposes of continuous-service pay: Provided, That any warrant officer in the Navy or Marine Corps and any pay clerk in the Marine Corps who has accepted or who may hereafter accept appointment as a commissioned officer in the Naval Reserve Force or Marine Corps Reserve shall be entitled, upon the termination of his appointment as a commissioned officer in the Reserve, to revert to his former status as a warrant officer in the Navy or Marine Corps, or as a pay clerk in the Marine Corps, and shall be entitled to count all active reserve service for purposes of longevity pay and retirement: Provided, That no part or parts of any existing laws shall be construed as having discharged from the Naval Militia of any State, Territory, or the District of Columbia, those members of the National Naval Volunteers who were transferred to the Naval Reserve Force by authority of the Act of Congress making appropriations for the Naval Service which became a law on July 1, 1918; nor to prevent members of the Naval Reserve Force from being or becoming members of the Naval Militia of any State, Territory, or the District of Columbia: Provided, That such membership in the Naval Militia shall not interfere with the discharge of duties by such members thereof who are in the Naval Reserve Force. (Act July 11, 1919, c. 9, § 1.)

§ 2166. Recall of retired enlisted men to active service

Note.—Act July 11, 1919, c. 9, § 1, provides that “so much of the Act of July 1, 1918, as authorizes the promotion of retired enlisted men of the Navy and Marine Corps ordered to active duty shall not be so construed as to make illegal promotions of such men as have heretofore been made to warrant grades or as to deprive them of any of the pay, allowances, or other benefits accruing under such promotion.”

CHAPTER 4.

RANK AND PRECEDENCE; PROMOTION AND ADVANCEMENT.

§ 2187. Length of service of officers of staff corps.

Note.—Act July 11, 1919, c. 9, § 1, provides that “any officer with the permanent rank of rear admiral who has heretofore served a full term and is now serving as chief of any bureau of the Navy Department shall be credited with service for all purposes as provided by section 1486 of the Revised Statutes, and nothing herein contained shall operate to increase the rank or pay of any such officer as now authorized by law.”

§ 2202a. Computation of service and selection of officers for promotion; age limits.—The provision of existing law which requires the Secretary of the Navy to make computations semiannually as of July 1 and January 1 of each year and to convene the boards to select officers of the line and of the staff corps for promotion is hereby amended so that said computations shall be made and said boards shall be convened at least once each year and at such times as the Secretary of the Navy may direct, and the boards shall recommend for promotion such number of officers as may be necessary to fill vacancies then existing and which may occur during the next period of time. Nothing contained in this Act shall be construed to reduce the pay or allowances of any commissioned, warrant, or appointed officer or any enlisted man as authorized by law for such officer or enlisted man in his present permanent status in the Regular Navy.

That officers of the permanent Navy who have served satisfactorily during the war with the German Government in a temporary grade or rank shall be eligible under the provision of existing law for selection for promotion and for promotion to the same permanent grade or rank until July 1, 1920, without regard to statutory requirements other than professional and physical examinations: Provided, That the age and grade requirement prescribed by the Act approved August 29, 1916, in the rank of commander, is hereby extended from June 30, 1920, to June 30, 1921.

The age limits for promotion by selection, which, under existing law, will become effective on June 30, 1920, are hereby deferred until June 30, 1921, in the cases only of those officers who may request such deferment. (Acts July 11, 1919, c. 9, § 1; June 4, 1920, c. 228, § 10.)

§ 2215a. Award of medals by President.—That the President of the United States be, and he is hereby, authorized to present, in the name of Congress, a medal of honor to any person who, while in the naval service of the United States, shall, in action involving actual conflict with the enemy, distinguish himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty and without detriment to the mission of his command or the command to which attached.

That the President be, and he hereby is, further authorized to present, but not in the name of Congress, a distinguished-service medal of appropriate design and a ribbon, together with a rosette or other device to be worn in lieu thereof, to any person who, while in the naval service of the United States, since the sixth day of April, nineteen hundred and seventeen, has distinguished, or who hereafter shall distinguish, himself by exceptionally meritorious service to the Government in a duty of great responsibility.

That the President be, and he hereby is, further authorized to present, but not in the name of Congress, a Navy cross of appropriate design and a ribbon, together with a rosette or other device to be worn in lieu thereof, to any person who, while in the naval service of the United States, since the sixth day of April, nineteen hundred and seventeen, has distinguished, or who shall hereafter distinguish, himself by extraordinary heroism or distinguished service in the line of his profession, such heroism or service not being sufficient to justify the award of a medal of honor or a distinguished-service medal. (Act Feb. 4, 1919, c. 14, §§ 1-3.)

§ 2215b. Additional pay for recipient of medal.—Each enlisted or enrolled person of the naval service to whom is awarded a medal of honor, distinguished-service medal, or a Navy cross shall, for each such award, be entitled to additional pay at the rate of \$2 per month from the date of the distinguished act or service on which the award is based, and each bar, or other suitable emblem or insignia, in lieu of a medal of honor, distinguished-service medal, or Navy cross, as hereinafter provided for, shall entitle him to further additional pay at the rate of \$2 per month from the date of the distinguished act or service for which the bar is awarded, and such additional pay shall continue throughout his active service, whether such service shall or shall not be continuous. (Act Feb. 4, 1919, c. 14, § 4.)

§ 2215c. Number of medals authorized.—No more than one medal of honor or one distinguished-service medal or one Navy cross shall be issued to any one person; but for each succeeding deed or service sufficient to

justify the award of a medal of honor or a distinguished-service medal or Navy cross, respectively, the President may award a suitable bar, or other suitable emblem or insignia, to be worn with the decoration and the corresponding rosette or other device. (Act Feb. 4, 1919, c. 14, § 5.)

§ 2215d. Payment for medals; replacement.—The Secretary of the Navy is hereby authorized to expend from the appropriation "Pay of the Navy" of the Navy Department so much as may be necessary to defray the cost of the medals of honor, distinguished-service medals, and Navy crosses, and bars, emblems, or insignia herein provided for, and so much as may be necessary to replace any medals, crosses, bars, emblems, or insignia as are herein or may heretofore have been provided for: Provided, That such replacement shall be made only in those cases where the medal of honor, distinguished-service medal, or Navy cross, or bar, emblem, or insignia presented under the provisions of this or any other Act shall have been lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was awarded, and shall be made without charge therefor. (Act Feb. 4, 1919, c. 14, § 6.)

§ 2215e. Period and conditions for award of medals.—Except as otherwise prescribed herein, no medal of honor, distinguished-service medal, Navy cross, or bar or other suitable emblem or insignia in lieu of either of said medals or of said cross, shall be issued to any person after more than five years from the date of the act or service justifying the award thereof, nor unless a specific statement or report distinctly setting forth the act or distinguished service and suggesting or recommending official recognition thereof shall have been made by his naval superior through official channels at the time of the act or service or within three years thereafter. (Act Feb. 4, 1919, c. 14, § 7.)

§ 2215f. Same; award to representative of decedent; effect of dishonorable conduct.—In case an individual who shall distinguish himself dies before the making of the award to which he may be entitled the award may nevertheless be made and the medal or cross or the bar or other emblem or insignia presented within five years from the date of the act or service justifying the award thereof to such representative of the deceased as the President may designate: Provided, That no medal or cross or no bar or other emblem or insignia shall be awarded or presented to any individual or the representative of any individual whose entire service subsequent to the time he distinguished himself shall not have been honorable: Provided further, That in cases of persons now in the naval service for whom the award of the medal of honor has been recommended in full compliance with then existing regulations, but on account of services which, though insufficient fully to justify the award of the medal of honor, appears to have been such as to justify the award of the distinguished-service medal or Navy cross hereinbefore provided for, such cases may be considered and acted upon under the provisions of this Act authorizing the award of the distinguished-service medal and Navy cross notwithstanding that said services may have been rendered more than five years before said cases shall have been considered as authorized by this proviso, but all consideration or any action upon any of said cases shall be based exclusively upon official records now on file in the Navy Department. (Act Feb. 4, 1919, c. 14, § 8.)

§ 2215g. Executive regulations concerning medals; award by flag officers.—That the President be, and he hereby is, authorized to delegate, under such conditions, regulations, and limitations as he shall prescribe, to flag officers who are commanders in chief or commanding on important independent duty the power conferred upon him by this Act to award the Navy cross; and he is further authorized to make from time to time any and all rules, regulations, and orders which he shall deem necessary to carry into effect the provisions of this Act and to execute the full purpose and intention thereof. (Act. Feb. 4, 1919, c. 14, § 9.)

CHAPTER 5.

THE NAVAL ACADEMY; OTHER NAUTICAL INSTRUCTION.

§ 2224. Increase in number of midshipmen.

Note.—By Act July 11, 1919, c. 9, § 1, provides that the first paragraph of this section "is hereby amended so as to read as follows: That hereafter there shall be allowed at the United States Naval Academy five midshipmen for each Senator, Representative, Delegate in Congress, and Resident Commissioner from Porto Rico, and five for the District of Columbia, fifteen appointed each year at large, and one hundred appointed annually from enlisted men of the Navy, and members of the Naval Reserve Force on active duty, as now authorized by law."

§ 2231. Midshipmen found deficient.—Until otherwise provided by law no midshipman found deficient at the close of the last and succeeding academic terms shall be involuntarily discontinued at the Naval Academy or in the service unless he shall fail upon reexamination in the subjects in which found deficient at an examination to be held at the beginning of the next and succeeding academic terms, and the Secretary of the Navy shall provide for the special instruction of such midshipmen in the subjects in which found deficient during the period between academic terms. (R. S. § 1519; Acts July 16, 1862, c. 183, § 11, 12 Stat. 585; June 5, 1920, c. 253.)

§ 2242a. Pay of civilian instructors.—The Secretary of the Navy is authorized, in his discretion, to readjust the prevailing rates of pay of civilian professors and instructors at the United States Naval Academy: Provided, That said readjustment, which shall be effective from January 1, 1920, shall not involve an additional expenditure in excess of \$55,000 for the remainder of the current fiscal year. (Act May 18, 1920, c. 190, § 7.)

§ 2245. Naval Academy Band.—The Naval Academy Band shall hereafter consist of one leader, with pay and allowances of first lieutenant in the Marine Corps; one second leader, with a base pay of \$81 per month; forty-five musicians, first class, with a base pay of \$51 per month; twenty-seven musicians, second class, with a base pay of \$44 per month; one drum major, with a base pay of \$57.20 per month; and the said leader of the band, second leader of the band, drum major of the band, and the enlisted musicians of the band shall be entitled to the same benefits in respect to pay, emoluments, and retirement arising from longevity, reenlistment, and length of service as are or may hereafter become applicable to other officers or enlisted men of the Navy. (Acts April 12, 1910, c. 157, 36 Stat. 297; July 11, 1919, c. 9, § 1.)

§ 2251a. Summer schools.—The Secretary of the Navy is hereby authorized, in his direction, to establish at two of the permanent naval training stations experimental summer schools for boys between the ages of sixteen and twenty years. For this purpose he is authorized to use such buildings, or other accommodations, at such training stations; to loan any naval equipment necessary for such purposes, and to give instructions which will fit them for service in the Navy of the United States. He is empowered to establish and enforce such rules within the camp as may be necessary and to detail such members of the naval personnel as may be required in order to encourage and execute the spirit of this Act. The Secretary of the Navy is further authorized to loan the necessary naval uniforms during the period of training and to furnish subsistence, medical attendance, and other necessary incidental expenses for those attending these schools: Provided, That those under instruction, with the consent of their parents or their guardians, shall enroll in the Naval Reserve Force for not less than three months, and no person not so enrolled shall be admitted to said training schools. For carrying out the provisions of this paragraph the sum of \$200,000 is appropriated. (Act June 4, 1920, c. 228.)

CHAPTER 6.

VESSELS AND NAVY-YARDS AND NAVAL STATIONS.

§ 2291a. Naval petroleum reserves.—The Secretary of the Navy is directed to take possession of all properties within the naval petroleum reserves

as are or may become subject to the control and use by the United States for naval purposes, and on which there are no pending claims or applications for permits or leases under the provisions of an Act of Congress approved February 25, 1920, entitled "An Act to provide for the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain," or pending application for United States patent under any law; to conserve, develop, use, and operate the same in his discretion, directly or by contract, lease, or otherwise, and to use, store, exchange, or sell the oil and gas products thereof, and those from all royalty oil from lands in the naval reserves, for the benefit of the United States: And provided further, That the rights of any claimant under said Act of February 25, 1920, are not affected adversely thereby: And provided further, That such sums as have been or may be turned into the Treasury of the United States from royalties on lands within the naval petroleum reserves prior to July 1, 1921, not to exceed \$500,000, are hereby made available for this purpose until July 1, 1922: Provided further, That this appropriation shall be reimbursed from the proper appropriations on account of the oil and gas products from said properties used by the United States at such rate, not in excess of the market value of the oil, as the Secretary of the Navy may direct. (Act June 4, 1920, c. 228.)

CHAPTER 7.

GENERAL PROVISIONS RELATING TO THE NAVY.

§ 2297a. **Furnishing of supplies to officers in Navy, Marine Corps, Coast Guard or at Naval Academy at cost.**—That hereafter uniforms, accoutrements, and equipment shall, upon the request of any officer of the Navy or any officer of the Marine Corps or any officer of the Coast Guard while operating with the Navy or any midshipman at the Naval Academy or cadets at the Coast Guard Academy, be furnished by the Government at cost, subject to such restrictions and regulations as the Secretary of the Navy may prescribe. (Act Jan. 12, 1919, c. 8.)

CHAPTER 8.

PAY, EMOLUMENTS, AND ALLOWANCES.

§ 2314a. **Pay of warrant officers for service abroad.**—Hereafter warrant officers shall receive the same increase of pay for service beyond the continental limits of the United States as is allowed to commissioned officers of the Army. (Act July 11, 1919, c. 8, § 1.)

§ 2314b. **Increase in pay of warrant officers.**—Commencing January 1, 1920, warrant officers of the Navy shall be paid, in addition to all pay and allowances now allowed by law, an increase at the rate of \$240 per annum. (Act May 18, 1920, c. 190, § 3.)

§ 2321a. **Pay of midshipmen.**—The pay of midshipmen shall hereafter be \$780 per annum. (Act July 11, 1919, c. 9, § 1.)

§ 2345a. **Pay of enlisted women.**—The words "enlisted men," as contained in prior appropriation Acts, shall not be construed to deprive women, enlisted or enrolled in the naval service, of the pay, allowances, gratuities, and other benefits granted by law to the enlisted personnel of the Navy and Marine Corps. (Act July 11, 1919, c. 9, § 1.)

§ 2347. **Rating and base pay of enlisted men.**

Note.—Act July 11, 1919, c. 9, § 1, provides that "the rates of pay prescribed in section 15 of an Act entitled 'An Act to temporarily increase the commissioned and warrant and enlisted strength of the Navy and Marine Corps, and for other purposes,' approved May 22, 1917, are hereby made the permanent rates of pay of the enlisted men of the Navy during their present current enlistment and for those who enlist or reenlist prior to July 1, 1920, for the term of such enlistment or reenlistment."

§ 2349a. **Travel allowance to men on discharge.**—All enlisted men of the Navy and Coast Guard who have served in the war with the German Government and who may hereafter be discharged or who have been discharged from the service since November 11, 1918, and before the expiration

of their full enlistment shall receive, under such rules and regulations as the Secretary of the Navy may prescribe, an honorable discharge and shall receive 5 cents per mile from the place of his discharge to his actual bona fide home, or residence, or original muster into the service at his option: Provided, That for sea travel on discharge, transportation and subsistence only shall be furnished to enlisted men: Provided, That the records of such men warrant such honorable discharge. (Act July 11, 1919, c. 9, § 1.)

§ 2351a. Loss or deficiency by disbursing officer.—The accounting officers of the Treasury shall relieve any disbursing officer of the Navy charged with responsibility on account of loss or deficiency while in the line of his duty, of Government funds, vouchers, records, or papers, in his charge, where such loss or deficiency occurred without fault or negligence on the part of said officer: Provided, That the Secretary of the Navy shall have determined that the officer was in the line of his duty, and the loss or deficiency occurred without fault or negligence on his part: Provided further, That the determination by the Secretary of the Navy of the aforesaid questions shall be conclusive upon the accounting officer of the Treasury: Provided further, That all cases of relief granted under this authority during any fiscal year shall be reported in detail to the Congress by the Secretary of the Navy. (Act July 11, 1919, c. 9, § 1.)

§ 2352a. Gratuity pay for reenlistment.—Any enlisted man of the Navy, Marine Corps, or Coast Guard, who, since February 3, 1917, and before November 11, 1918, enlisted for the period of four years shall upon his application made to the Secretary of the Navy on or before September 1, 1919, be held and construed to have enlisted for the duration of the war and shall when discharged be granted an honorable discharge, and upon the taking effect of this Act shall be notified by the Secretary of the Navy of his right to file such application: Provided, That said enlisted man is otherwise entitled to an honorable discharge: Provided further, That the return home of the American Expeditionary Forces shall not be thereby delayed: Provided further, That any enlisted man who takes advantage of the provisions of this paragraph to secure a discharge from the Navy, Marine Corps, or Coast Guard, and thereafter reenlists within four months in the Navy or in the Marine Corps, under conditions as now prescribed by law, for a period of four years, shall be entitled to receive the benefits of the gratuity pay provided by existing law for reenlistments.

Enlisted men of the Navy, Marine Corps, and Coast Guard, who enlisted for the period of the war or enlisted for a period of four years between February 3, 1917, and November 11, 1918, and have their status changed to that of men who enlisted for the period of the war if otherwise entitled to an honorable discharge, may, under such regulations as the Secretary of the Navy may prescribe, extend their enlistments for a period of one, two, three, or four full years, and shall be entitled to and receive the same rights, privileges, pay, and allowances in all respects as now provided by law for men who extend enlistment on completion of terms of enlistment, except as to gratuity pay: Provided, That as, to gratuity pay, such enlisted men who extend their enlistment as before provided shall be entitled to receive an allowance of one month's pay for extending their enlistment for one year, two months' pay for extending their enlistment for two years, three months' pay for extending their enlistment for three years, and in the Navy four months' pay for extending their enlistment for four years. (Act July 11, 1919, c. 9, § 1.)

§ 2352b. Time for reenlistment.—Any enlisted man or apprentice seaman who shall reenlist in the Navy within one year from the date of his discharge therefrom shall, upon such reenlistment, be entitled to and shall receive the same benefits as are now authorized by law for reenlistment within four months from date of last discharge from the service: Provided, That this section shall become inoperative six months after the date of the approval of this Act. (Act May 18, 1920, c. 190, § 10.)

§ 2358a. Emergency allowances to officers and enlisted men during war.—The accounting officers of the Treasury Department are hereby authorized and directed to allow, in the settlement of the accounts of disbursing

officers of the Navy and Marine Corps covering the period of the present emergency, such credits for payments to officers and enlisted men not ordinarily allowable under the statutes, as are certified to them by the Secretary of the Navy as having incurred under military necessity, or as having been occasioned by accidental circumstances or conditions over which such disbursing officers had no control and for which they were not justly responsible: Provided, That the period of the present emergency as contemplated by this paragraph shall be regarded as beginning on the 6th day of April, 1917, and as terminating six months after the expiration of the quarter in which peace is declared. And that nothing herein shall be construed to include payments under contracts for supplies or services. (Act July 11, 1919, c. 9, § 1.)

§ 2359. Allowances, on death, to widow and dependents.—Hereafter, immediately upon official notification of the death from wounds or disease, not the result of his or her own misconduct, of any officer, enlisted man, or nurse on the active list of the Regular Navy or Regular Marine Corps, or on the retired list when on active duty, the Paymaster General of the Navy shall cause to be paid to the widow, and if there be no widow to the child or children, and if there be no widow or child, to any other dependent relative of such officer, enlisted man, or nurse previously designated by him or her, an amount equal to six months' pay at the rate received by such officer, enlisted man, or nurse at the date of his or her death. The Secretary of the Navy shall establish regulations requiring each officer and enlisted man or nurse having no wife or child to designate the proper dependent relative to whom this amount shall be paid in case of his or her death. Said amount shall be paid from funds appropriated for the pay of the Navy and pay of the Marine Corps, respectively: Provided, That nothing in this section or in other existing legislation shall be construed as making the provisions of this section applicable to officers, enlisted men, or nurses of any forces of the Navy of the United States other than those of the regular Navy and Marine Corps, and nothing in this section shall be construed to apply in commissioned grades to any officers except those holding permanent or probationary appointments in the Regular Navy or Marine Corps: Provided, That the provisions of this section shall apply to the officers and enlisted men of the Coast Guard, and the Secretary of the Treasury will cause payment to be made accordingly. (Acts May 13, 1908, c. 166, 35 Stat. 128; Aug. 22, 1912, c. 335, 37 Stat. 329; Oct. 6, 1917, c. 89, 40 Stat. 392; June 4, 1920, c. 228.)

§ 2376. Commutations of rations for general courts-martial prisoners.—The Secretary of the Navy is authorized to commute rations for such general courts-martial prisoners in such amounts as seem to him proper, which may vary in accordance with the location of the naval prison, but which shall in no case exceed 30 cents per diem for each ration so commuted. (Acts July 1, 1918, c. 114; July 11, 1919, c. 9, § 1; June 4, 1920, c. 228.)

§ 2377. Commuted rations of caterers on death or desertion.—Commuted rations may be paid to caterers of messes, in case of death or desertion, upon orders of the commanding officers. (Acts June 15, 1917, c. 290, § 1, 40 Stat. 210; July 1, 1918, c. 114, 40 Stat.; July 11, 1919, c. 9, § 1.)

CHAPTER 9.

THE MARINE CORPS.

§ 2409. Permanent enlisted strength of corps.—The authorized enlisted strength of the active list of the Marine Corps is hereby permanently established at twenty-seven thousand four hundred, distribution in the various grades to be made in the same proportion as provided under existing law. Provided, That all officers serving temporarily in the grades of captain and below upon the date of the passage of this Act shall be eligible to fill existing vacancies and those hereby created in the permanent authorized strength in said grades by transfer to or reappointment in the Permanent Marine Corps in the grades not above that of captain. Transfers so made shall be without regard to age, and if found not qualified for transfer to

the same grade as that held by them on the date of transfer then to lower grades after qualification. All officers so transferred shall establish to the satisfaction of the Secretary of the Navy, under such rules as he may prescribe, their mental, moral, professional, and physical qualifications to perform the duties of the grade to which transferred or reappointed and shall take precedence with each other and with other officers of the Marine Corps in such order as may be recommended by a board of marine officers and approved by the Secretary of the Navy: Provided, That all persons who served honorably as officers in the Marine Corps or Marine Corps Reserve on active duty at any time between April 6, 1917, and the date of the passage of this Act and who have been honorably discharged or assigned to inactive duty shall be eligible for permanent appointment in the same or a lower rank than that held on discharge or assignment to inactive duty, but not above the rank of captain, to fill vacancies existing or hereby created in the permanent authorized strength of the Marine Corps under the same conditions as those above prescribed for officers now in the service: Provided further, That officers now holding temporary commissions in the Marine Corps and who have had more than ten years' service therein, if not found qualified for permanent commissions, and who are recommended by the board herein provided for, may be appointed warrant officers in the Marine Corps; and the authorized number of warrant officers is hereby increased by a number not to exceed fifty to provide for the appointment of the aforesaid officers: Provided further, That all transfers and appointments made in accordance with the provisions of this section shall be accomplished by June 30, 1921: Provided further, That the officers now holding temporary appointments as commissioned officers in the Marine Corps may retain their temporary commissions until the permanent appointments provided for in the foregoing section shall have been made. (Acts Aug. 29, 1916, c. 417, 39 Stat. 612; June 4, 1920, c. 228, § 1.)

Note.—Act July 11, 1919, c. 9, § 1, provides that "the authorized enlisted strength of the active list of the Marine Corps is hereby temporarily increased to 27,400, plus such number of men as may be serving with the American Expeditionary Forces abroad: Provided, That the average number of enlisted men of the Marine Corps on active duty during the fiscal year ending June 30, 1920, shall not exceed 27,400, distribution in the various grades to be made in the same proportion as provided under existing law.

"In making reductions required by this Act, officers holding temporary appointments may be given temporary appointments in lower grades, and officers so appointed shall take precedence from the dates of their original appointments in such lower grades."

§ 2438. Rations for enlisted men.—Hereafter, except when detached by the President of the United States for duty with the Army, enlisted men of the Marine Corps shall be entitled to the same allowance for rations as are enlisted men of the Navy, under such rules and regulations as may be prescribed by the Secretary of the Navy. (R. S. § 1615; Acts July 1, 1797, c. 7, § 6, 1 Stat. 524; July 11, 1798, c. 2, § 2, 1 Stat. 595; July 11, 1919, c. 9, § 1.)

§ 2443a. Transfer of supplies from Army.—The Secretary of War is authorized and directed to transfer to the Secretary of the Navy for the use of the Marine Corps without payment therefor, such reserve stock of clothing, arms, and equipment, and other necessary military supplies, inventoried at the cost to the Army and not to exceed in the aggregate \$7,000,000, as the same from time to time may be requisitioned. (Act Feb. 25, 1919, c. 39, § 4.)

§ 2450a. Temporary promotion of detached officers.—Commissioned officers of the Marine Corps, detached for duty with the Army under the provisions of section sixteen hundred and twenty-one, Revised Statutes, shall be eligible, in the same manner as officers of the Regular Army, for temporary promotion to higher grades in any of the forces provided by the Act entitled "An Act to authorize the President to increase temporarily the Military Establishment of the United States," approved May eighteenth, nineteen hundred and seventeen: Provided, That officers of the Marine Corps temporarily promoted to higher grades in any of the forces of the Army under the provisions of this Act shall not thereby vacate their permanent appointments or commissions, or be prejudiced in their relative

lineal standing in the Marine Corps: Provided further, That temporary vacancies in the Marine Corps caused by the appointment of officers to higher grades in the Army shall be temporarily filled in the same manner as is now prescribed by law: And provided further, That the temporary promotions herein authorized shall continue only while such officers are detached for duty with the Army. (Act Jan. 12, 1918, c. 7.)

Note.—R. S. § 1621, so referred to, is § 2450 in Barnes' Federal Code.

CHAPTER 10.

NAVAL RESERVE FORCE.

§ 2458. General provisions.

Note.—Act July 11, 1919, c. 9, § 1, provides that "officers of the United States Naval Reserve Force who were transferred from the National Naval Volunteers under the provisions of the Act of July 1, 1918, shall be paid the same uniform gratuity as other officers of the Naval Reserve Force: Provided, That they shall not have received from any State such gratuity."

§ 2458a. Active duty.—Female members, except nurses, of the Naval Reserve Force and Marine Corps Reserve shall, as soon as practicable and in no event later than thirty days after the date of approval of this Act, be placed on inactive duty. Members of the Naval Reserve Force shall not hereafter be ordered to perform active duty on shore of a kind which is ordinarily performed by civilians, and all reservists now performing such duty shall be relieved from such duty within thirty days after the date of approval of this Act. (Act July 11, 1919, c. 9, § 1.)

§ 2458b. Temporary civil appointments in Navy.—Members of the Naval Reserve Force and Marine Corps Reserve whose conduct, services and efficiency have demonstrated the desirability of their retention may, in the discretion of the Secretary of the Navy, be given temporary civil appointments in the Navy Department or Naval Establishment at the ordinary and usual rates of pay accorded employees performing a similar character of work, provided such services are necessary.

Members of the Naval Reserve Force and Marine Corps Reserve who accept such temporary civil appointments shall be given an opportunity to qualify by a civil service examination for certification in accordance with civil service rules to fill such vacancies as may occur, in cases where they are not already eligible for appointment or reinstatement. All temporary appointments made hereunder shall terminate not later than June 30, 1920. For pay of reservists so transferred to the civil establishment, or civil service employees appointed in lieu thereof, \$8,613,220, their pay prior to transfer to be charged to the appropriation "Pay of the Navy," and the Secretary of the Navy shall submit to Congress on the first day of the next regular session a statement showing the number and designation of the persons employed hereunder and the rate of compensation paid to each: Provided, That no employee paid under the provisions of this paragraph, except expert technicians, shall receive annual compensation in excess of \$2,000 for services rendered in the Navy Department, Washington, District of Columbia: Provided further, That not more than twenty-four employees shall be so appointed at a compensation exceeding \$2,000 per annum, and that in no case shall the compensation exceed \$4,000 per annum. (Act July 11, 1919, c. 9, § 1.)

§ 2458c. Transfer of service men to Navy and Marine Corps.—Enrolled men of the Naval Reserve Force and of the Marine Corps Reserve, other than commissioned and warrant officers, who have performed active duty during the war, may, upon their own application, be transferred to the Regular Navy and Marine Corps, respectively, to serve the unexpired term of their enrollment in such rating or rank as they may be found qualified under such regulations as the Secretary of the Navy may prescribe: Provided, That men so transferred shall have at least one year to serve in the Regular Navy or the Marine Corps before the expiration of their current enlistment: Provided further, That such transfers may not be made in excess of the authorized enlisted strength of the Navy or Marine Corps: Provided further, That enrolled men so transferred shall be entitled to and receive the same pay, rights, privileges, and allowances in all

respects as now provided by existing law for men regularly discharged and reenlisted immediately upon expiration of their full four-year enlistment in the Regular Navy or Marine Corps. (Act July 11, 1919, c. 9, § 1.)

§ 2464a. Retainer pay.—Retainer pay provided by existing law shall not be paid to any member of the Naval Reserve Force who fails to train as provided by law during the year for which he fails to train. (Act June 4, 1920, c. 228.)

§ 2464b. Withholding retainer pay.—Hereafter the Secretary of the Navy may, in his discretion, withhold any part or all of the retainer pay which may be due a member of the Naval Reserve Force where such members fail to perform such duty as may be prescribed by law for the maintenance of the efficiency of the Naval Reserve Force: Provided, That any money so withheld shall be credited to the appropriation for organizing and administering the Naval Reserve Force to be used for any purpose that the Secretary of the Navy may consider proper to increase the efficiency of the Naval Reserve Force: Provided further, That hereafter the minimum amount of active service required for the maintenance of the efficiency of the Fleet Naval Reserve shall be the same as for the Naval Reserve. (Act June 4, 1920, c. 228, § 9.)

§ 2464c. Retirement for disability.—All officers of the Naval Reserve Force and temporary officers of the Navy who have heretofore incurred or may hereafter incur physical disability in line of duty shall be eligible for retirement under the same conditions as now provided by law for officers of the Regular Navy who have incurred physical disability in line of duty. (Act June 4, 1920, c. 228.)

TITLE XVIII.

THE MILITIA.

§ 2554. Composition of units.—Except as otherwise specifically provided herein, the organization of the National Guard, including the composition of all units thereof, shall be the same as that which is or may hereafter be prescribed for the Regular Army, subject in time of peace to such general exceptions as may be authorized by the Secretary of War. And the President may prescribe the particular unit or units, as to branch or arm of service, to be maintained in each State, Territory, or the District of Columbia in order to secure a force which, when combined, shall form complete higher tactical units.

Until July 1, 1921, companies and corresponding units of the National Guard may be recognized at a minimum enlisted strength of fifty: Provided, That the National Guard of any State, Territory, and the District of Columbia may include such detachments or parts of units as may be necessary in order to form complete tactical units when combined with troops of other States. (Acts June 3, 1916, c. 134, § 60, 39 Stat. 197; June 4, 1920, c. 227, § 36.)

§ 2554a. The initial organization of the National Guard and the Organized Reserves.—In the reorganization of the National Guard and in the initial organization of the Organized Reserves, the names, numbers and other designations, flags, and records of the divisions and subordinate units thereof that served in the World War between April 6, 1917, and November 11, 1918, shall be preserved as such as far as practicable. Subject to revision and approval by the Secretary of War, the plans and regulations under which the initial organization and territorial distribution of the National Guard and the Organized Reserves shall be made, shall be prepared by a committee of the branch or division of the War Department General Staff, hereinafter provided for, which is charged with the preparation of plans for the national defense and for the mobilization of the land forces of the United States. For the purpose of this task said com-

mittee shall be composed of members of said branch or division of the General Staff and an equal number of reserve officers, including reserve officers who hold or have held commissions in the National Guard. Subject to general regulations approved by the Secretary of War, the location and designation of units of the National Guard and of the Organized Reserves entirely comprised within the limits of any State or Territory shall be determined by a board, a majority of whom shall be reserve officers, including reserve officers who hold or have held commissions in the National Guard and recommended for this duty by the governor of the State or Territory concerned. (Act June 3, 1916, c. 134, § 3a, as added by Act June 4, 1920, c. 227, § 3.)

§ 2556. Number of enlisted men.

Note.—Act July 11, 1919, c. 8, § 1, provides that this section "shall be considered fulfilled if the first strength mentioned therein be attained by June 30, 1920, and the other increments provided therein be attained by successive years thereafter: Provided further, That this shall not prevent any State from compliance with the provisions of section 62: Provided further, That the appropriations and provisions of this Act referring to the National Guard shall become applicable and available upon the approval of this Act."

§ 2563. Enlistments in National Guard.—Original enlistments in the National Guard shall be for a period of three years and subsequent enlistments for periods of one year each: Provided, That persons who have served in the Army for not less than six months, and have been honorably discharged therefrom, may, within two years after the passage of this Act, enlist in the National Guard for a period of one year and reenlist for like periods. (Acts June 3, 1916, c. 134, § 69, 39 Stat. 200; July 11, 1919, c. 8, § 1; June 4, 1920, c. 227, § 37.)

§ 2564. Enlistment contract and oath.—Men enlisting in the National Guard of the several States, Territories, and the District of Columbia, shall sign an enlistment contract and subscribe to the following oath of enlistment: "I do hereby acknowledge to have voluntarily enlisted this _____ day of _____, 19—, as a soldier in the National Guard of the United States and of the State of _____, for the period of three (or one) year—, under the conditions prescribed by law, unless sooner discharged by proper authority. And I do solemnly swear that I will bear true faith and allegiance to the United States of America and to the State of _____, and that I will serve them honestly and faithfully against all their enemies whomsoever, and that I will obey the orders of the President of the United States and of the governor of the State of _____, and of the officers appointed over me according to law and the rules and Articles of War." (Acts June 3, 1916, c. 134, § 70, 39 Stat. 201; June 4, 1920, c. 227, § 38.)

§ 2565. Repealed by Act June 4, 1920, c. 227, § 39.

§ 2566. Discharge of enlisted men from the National Guard.—An enlisted man discharged from service in the National Guard, except when drafted into the military service of the United States under the provisions of section 111 of this Act, shall receive a discharge in writing in such form and with such classification as is or shall be prescribed for the Regular Army, and in time of peace discharges may be given prior to the expiration of terms of enlistment under such regulations as the President may prescribe. (Acts June 3, 1916, c. 134, § 72, 39 Stat. 201; June 4, 1920, c. 227, § 40.)

§ 2567. Qualifications and oath of officers; vacancies.—Commissioned officers of the National Guard of the several States, Territories, and the District of Columbia now serving under commissions regularly issued shall continue in office, as officers of the National Guard, without the issuance of new commissions: Provided, That said officers have taken, or shall take and subscribe to the following oath of office: "I, _____, do solemnly swear that I will support and defend the Constitution of the United States and the constitution of the State of _____, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I

will obey the orders of the President of the United States and of the governor of the State of ———; that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of ——— in the National Guard of the United States and of the State of ——— upon which I am about to enter, so help me God."

Persons hereafter commissioned as officers of the National Guard shall not be recognized as such under any of the provisions of this Act unless they shall have been selected from the following classes, and shall have taken and subscribed to the oath of office prescribed in the preceding section of this Act; officers or enlisted men of the National Guard; officers, active or retired, reserve officers, and former officers of the Army, Navy, or Marine Corps, enlisted men and former enlisted men of the Army, Navy, or Marine Corps, who have received an honorable discharge therefrom; graduates of the United States Military and Naval Academies; and graduates of schools, colleges, universities, and officers' training camps, where they have received military instruction under the supervision of an officer of the Regular Army who certified their fitness for appointment as commissioned officers; and for the technical branches or Staff Corps and departments, such other civilians as may be specially qualified for duty therein.

The provisions of this Act shall not apply to any person hereafter appointed an officer of the National Guard unless he first shall have successfully passed such tests as to his physical, moral, and professional fitness as the President shall prescribe. The examination to determine such qualifications for commission shall be conducted by a board of three commissioned officers appointed by the Secretary of War from the Regular Army or the National Guard, or both.

All vacancies occurring in any grade of commissioned officers in any organization in the military service of the United States and composed of persons drafted from the National Guard under the provisions of this Act shall be filled by the President, as far as practicable, by the appointment of persons similarly taken from said guard, and in the manner prescribed by law for filling similar vacancies occurring in the volunteer forces.

At any time the moral character, capacity, and general fitness for the service of any National Guard officer may be determined by an efficiency board of three commissioned officers, senior in rank to the officer whose fitness for service shall be under investigation, and if the findings of such board be unfavorable to such officer and he approved by the official authorized to appoint such an officer, he shall be discharged. Commissions of officers of the National Guard may be vacated upon resignation, absence without leave for three months, upon the recommendation of an efficiency board, or pursuant to sentence of a court-martial. Officers of said guard rendered surplus by the disbandment of their organizations shall be placed in the National Guard Reserve. Officers may, upon their own application, be placed in the said reserve. (Acts June 3, 1916, c. 134, §§ 73-77, 39 Stat. 201; June 4, 1920, c. 227, § 41.)

§ 2568. National Guard Reserve.—Hereafter, men duly qualified under regulations prescribed by the Secretary of War may enlist in the National Guard Reserve for a period of one or three years, under such regulations as the Secretary of War shall prescribe, and on so enlisting they shall subscribe to the following enlistment contract, and take the oath therein specified: "I do hereby acknowledge to have voluntarily enlisted this ——— day of ———, 19—, as a soldier in the National Guard Reserve of the United States and of the State of ———, for a period of one (or three) year—, unless sooner discharged by proper authority, and I do solemnly swear that I will bear true faith and allegiance to the United States of America and to the State of ———, and that I will serve them honestly and faithfully against all their enemies whomsoever and that I will obey the orders of the President of the United States and the governor of the State of ———, and of the officers appointed over me according to law and the rules and Articles of War"; Provided, That members of said Reserve, officers and enlisted men, when engaged in field or coast defense training with the active National Guard, shall receive the same Federal pay and allowances as those occupying like grades on the active list of said guard when likewise engaged: Provided further, That, except

as otherwise specifically provided in this Act, no commissioned or enlisted reservist shall receive any pay or allowances out of any appropriation made by Congress for National Guard purposes. (Acts June 3, 1916, c. 134, § 78, 39 Stat. 202; June 4, 1920, c. 227, § 42.)

§ 2569. Repealed by Act June 4, 1920, c. 227, § 43.

§ 2571. **Militia Bureau of the War Department.**—The Militia Division of the War Department shall hereafter be known as the Militia Bureau of the War Department. After January 1, 1921, the Chief of the Militia Bureau shall be appointed by the President, by and with the advice and consent of the Senate, by selection from lists of present and former National Guard officers, recommended by the Governors of the several States and Territories as suitable for such appointment, who hold commissions in the Officers' Reserve Corps, who have had ten or more years' commissioned service in the National Guard, at least five of which have been in the line, and who have attained at least the grade of major. He shall hold office for four years, unless sooner removed for cause, and shall have the rank, pay and allowances of a major general of the Regular Army during his tenure of office, but shall not be entitled to retirement or retired pay. While serving as chief, his reserve commission shall continue in force, and shall not be terminated except for cause assigned. Until the chief is appointed, as provided in this section, the President may assign an officer of the Regular Army, not below the grade of colonel, to perform the duties of chief. For duty in the Militia Bureau and for the instruction of the National Guard the President shall assign such numbers of officers and enlisted men of the Regular Army as he may deem necessary. The President may also assign, with their consent, and within the limits of the appropriations previously made for this specific purpose, not exceeding five hundred officers of the National Guard, who hold reserve commissions, to duty with the Regular Army, in addition to those attending service schools; and while so assigned they shall receive the same pay and allowances as Regular Army officers of like grades, to be paid out of the whole fund appropriated for the support of the militia. (Acts June 3, 1916, c. 134, § 81, 39 Stat. 203; June 4, 1920, c. 227, § 44.)

§ 2575. **Pay for National Guard officers.**—Captains and lieutenants belonging to organizations of the National Guard shall receive compensation at the rate of one-thirtieth of the monthly base pay of their grades as prescribed for the Regular Army for each regular drill or other period of instruction authorized by the Secretary of War, not exceeding five in any one calendar month, at which they shall have been officially present for the entire required period, and at which at least 50 per centum of the commissioned strength and 60 per centum of the enlisted strength attend and participate for not less than one and one-half hours. Captains commanding organizations shall receive \$240 a year in addition to the drill pay herein prescribed. Officers above the grade of captain shall receive not more than \$500 a year, and officers below the grade of major, not belonging to organizations, shall receive not more than four-thirtieths of the monthly base pay of their grades for satisfactory performance of their appropriate duties under such regulations as the Secretary of War may prescribe. Pay under the provisions of this section shall not accrue to any officer during a period when he shall be lawfully entitled to the same pay as an officer of corresponding grade in the Regular Army: Provided, That section 9 of an Act amending the Act entitled "An Act to authorize the President to increase temporarily the Military Establishment of the United States," approved May 18, 1917, approved August 31, 1918, shall also apply to the purchase of uniforms, accoutrements, and equipment for cash by officers of the National Guard and National Guard Reserve, whether in State or Federal service, on proper identification and under such rules and regulations as the Secretary of War may prescribe. (Acts June 3, 1916, c. 134, § 109, 39 Stat. 209; June 4, 1920, c. 227, § 47.)

§ 2577. **Pay for National Guard enlisted men.**—Each enlisted man belonging to an organization of the National Guard shall receive compensation at the rate of one-thirtieth of the initial monthly pay of his grade in the Regular Army for each drill ordered for his organization where he is

officially present and in which he participates for not less than one and one-half hours, not exceeding eight in any one calendar month, and not exceeding sixty drills in one year: Provided, That no enlisted man shall receive any pay under the provisions of this section for any month in which he shall have attended less than 60 per centum of the drills or other exercises prescribed for his organization: Provided further, That the proviso contained in section 92 of this Act shall not operate to prevent the payment of enlisted men actually present at any duly ordered drill or other exercise: And provided further, That periods of any actual military duty equivalent to the drills herein prescribed (except those periods of service for which members of the National Guard may become lawfully entitled to the same pay as officers and enlisted men of the corresponding grades in the Regular Army) may be accepted as service in lieu of such drills when so provided by the Secretary of War. (Acts June 3, 1916, c. 134, § 110, 39 Stat. 209; June 4, 1920, c. 227, § 48.)

§ 2577a. Experience and age of staff officers; vacancies.—To comply with the provisions of section 110, of the Act entitled "An Act for making further and more effectual provision for the national defense, and for other purposes," approved June 3, 1916, it is hereby provided that staff officers, including officers of the Pay, Inspection, Subsistence, and Medical Departments, appointed in the National Guard of the District of Columbia shall have had previous military experience and shall hold their positions until they shall have reached the age of sixty-four years, unless retired prior to that time by reason of resignation, disability, or for cause to be determined by a court-martial legally convened for that purpose, and that vacancies among said officers shall be filled by appointment from the officers of the National Guard of the District of Columbia. (Act July 11, 1919, c. 8, § 1.)

§ 2577b. Continuous service pay.—That members of the National Guard who have or shall become entitled for a continuous period of less than one month to Federal pay at rates fixed for the Regular Army, whether by virtue of a call by the President, of attendance at school or maneuver, or of any other cause, and whose accounts have not yet been settled, shall receive such pay for each day of such period; and the thirty-first day of a calendar month shall not be excluded from the computation. (Act June 5, 1920, c. 240.)

§ 2578. National Guard when drafted into Federal service.—When Congress shall have authorized the use of the armed land forces of the United States for any purpose requiring the use of troops in excess of those of the Regular Army, the President may, under such regulations, including such physical examination, as he may prescribe, draft into the military service of the United States, to serve therein for the period of the war or emergency, unless sooner discharged, any or all members of the National Guard and of the National Guard Reserve. All persons so drafted shall, from the date of their draft, stand discharged from the militia, and shall be subject to such laws and regulations for the government of the Army of the United States as may be applicable to members of the Army, whose permanent retention in the military service is not contemplated by law, and shall be organized into units corresponding as far as practicable to those of the Regular Army or shall be otherwise assigned as the President may direct. The commissioned officers of said organizations shall be appointed from among the members thereof; officers with rank not above that of colonel to be appointed by the President alone, and all other officers to be appointed by the President by and with the advice and consent of the Senate. Officers and enlisted men while in the service of the United States under the terms of this section shall have the same pay and allowances as officers and enlisted men of the Regular Army of the same grades and the same prior service. On the termination of the emergency all persons so drafted shall be discharged from the Army, shall resume their membership in the militia, and, if the State so provide, shall continue to serve in the National Guard until the dates upon which their enlistments entered into prior to their draft, would have expired if uninterrupted. (Acts June 3, 1916, c. 134, § 111, 39 Stat. 211; June 4, 1920, c. 227, § 49.)

§ 2592a. Infantry equipment; field artillery material.

Note.—Acts July 11, 1919, c. 8, § 1, and June 5, 1920, c. 240, provide "that the Secretary of War is directed to issue from surplus stores and matériel now on hand and purchased for the United States Army such articles of clothing and equipment and Field Artillery matériel and ammunition as may be needed by the National Guard without charge against militia appropriations."

§ 2595. Animals for National Guard.—Funds allotted by the Secretary of War for the support of the National Guard shall be available for the purchase, under such regulation as the Secretary of War may prescribe, of animals conforming to the Regular Army standards for the training of the National Guard, said animals to remain the property of the United States and to be used solely for military purposes. The number of animals so issued shall not exceed thirty-two for each battery of field artillery or troop of cavalry, and a proportionate number for other mounted organizations, under such regulations as the Secretary of War may prescribe; and the Secretary of War is further authorized to issue, in lieu of purchase, for the training of such organizations, condemned Army animals which are no longer fit for service, but which may be suitable for the purposes of instruction, such animals to be sold as now provided by law when said purposes shall have been served.

Funds allotted by the Secretary of War for the support of the National Guard shall be available for the purchase and issue of forage, bedding, shoeing, and veterinary services, and supplies for the Government animals issued to any organization, and for the compensation of competent help for the care of the material, animals, and equipment thereof, under such regulations as the Secretary of War may prescribe: Provided, That the men to be compensated, not to exceed five for each organization, shall be duly enlisted therein and shall be detailed by the organization commander, under such regulations as the Secretary of War may prescribe, and shall be paid by the United States disbursing officer in each State, Territory, and the District of Columbia. (Acts June 3, 1916, c. 134, §§ 89, 90, 39 Stat. 205; June 4, 1920, c. 227, §§ 45, 46.)

§ 2601. Camp pay.

Note.—Act July 11, 1919, c. 8, § 1, provides that "the sum of \$12,000 is authorized to be expended for supplying meals or furnishing commutation of rations to enlisted men of the Regular Army and the National Guard who may be competitors in the national rifle match: Provided further, That no competitor shall be entitled to commutation of rations in excess of \$1.50 per day, and when meals are furnished no greater expense than that sum per man per day for the period the contest is in progress shall be incurred."

§ 2610. Training camps.—The Secretary of War is hereby authorized to maintain, upon military reservations or elsewhere, schools or camps for the military instruction and training, with a view to their appointment as reserve officers or noncommissioned officers, of such warrant officers, enlisted men, and civilians as may be selected upon their own application; to use for the purpose of maintaining said camps and imparting military instructions and training thereat, such arms, ammunition, accoutrements, equipments, tentage, field equipage, and transportation belong to the United States as he may deem necessary; to furnish at the expense of the United States uniforms, subsistence, transportation by the most usual and direct route within such limits as to territory as the Secretary of War may prescribe, or in lieu of furnishing such transportation and subsistence to pay them travel allowances at the rate of 5 cents per mile for the distance by the shortest usually traveled route from the places from which they are authorized to proceed to the camp, and for the return travel thereto, and to make the payment of travel allowances for the return journey in advance of the actual performance of the same, and medical attendance and supplies to persons receiving instruction at said camps during the period of their attendance thereat, to authorize such expenditures, from proper Army appropriations, as he may deem necessary for water, fuel, light, temporary structures, not including quarters for officers nor barracks for men, screening, and damages resulting from field exercises, and other expenses incidental to the maintenance of said camps, and the theoretical winter instruction in connection therewith; and to sell to persons receiving instructions at said camps, for cash and at cost price, plus 10 per centum, quartermaster and ordnance property, the amount of such property sold

to any one person to be limited to that which is required for his proper equipment. All moneys arising from such sales shall remain available throughout the fiscal year following that in which the sales are made, for the purpose of that appropriation from which the property sold was authorized to be supplied at the time for the sale. The Secretary of War is authorized further to prescribe the courses of theoretical and practical instruction to be pursued by persons attending the camps authorized by this section; to fix the periods during which such camps shall be maintained; to prescribe rules and regulations for the government thereof; and to employ thereat officers, warrant officers, and enlisted men of the Regular Army in such numbers and upon such duties as he may designate. (Acts June 3, 1916, c. 134, §§ 47d. 54, 39 Stat. 194; May 12, 1917, c. 12, 40 Stat. 69; June 4, 1920, c. 227, § 34.)

Note.—See §§ 1544-1552.

§ 2610a. Travel pay for rifle teams.—Hereafter members of civilian rifle teams may, in the discretion of the Secretary of War, be paid, as commutation of traveling expenses at the rate of 5 cents per mile for the shortest usually traveled route from their homes to national matches, when authorized to participate therein by the Secretary of War and for the return travel thereto: Provided further, That the payment of travel pay for the return journey may be made in advance of the actual performance of travel. (Act June 5, 1920, c. 240.)

§ 2610b. Designation of rifle teams.—The governors of the States, Territories, or the Board of Commissioners of the District of Columbia may designate which team shall represent their respective States, Territories, or District of Columbia. (Act July 11, 1919, c. 8.)

§ 2619. Repealed by Act June 4, 1920, c. 227, § 31.

§ 2623a. Temporary Naval Militia.—Until June 30, 1922, of the Organized Militia as provided by law, such part as may be duly prescribed in any State, Territory, or the District of Columbia shall constitute a Naval Militia; and, until June 30, 1922, such of the Naval Militia as now is in existence, and as now organized and prescribed by the Secretary of the Navy under authority of the Act of Congress approved February 16, 1914, shall be a part of the Naval Reserve Force, and the Secretary of the Navy is authorized to maintain and provide for said Naval Militia as provided in said Act: Provided further, That upon their enrollment in the Naval Reserve Force, and not otherwise, until June 30, 1922, the members of said Naval Militia shall have all the benefits, gratuities, privileges, and emoluments provided by law for other members of the Naval Reserve Force; and that, with the approval of the Secretary of the Navy, duty performed in the Naval Militia may be counted as active service for the maintenance of efficiency required by law for members of the Naval Reserve Force: And provided further, That all moneys appropriated for the Naval Reserve Force or for the Naval Militia shall constitute one fund and hereby are made available, under the direction of the Secretary of the Navy, for both. (Act June 4, 1920, c. 228.)

TITLE XIX.

ARMORIES AND MUNITIONS.

§ 2690a. Loan and sale of rifles to army organizations.—The Secretary of War is hereby authorized, under rules, limitations, and regulations to be prescribed by him, to loan obsolete or condemned Army rifles to posts of the American Legion for use by them in connection with the funeral ceremonies of deceased soldiers, sailors, and marines, and for other post ceremonial purposes; and to sell to such posts blank ammunition in suitable amounts for said rifles at cost price, plus cost of packing and transportation: Provided, however, That not to exceed ten such rifles shall be issued to any one post.

The Secretary of War is hereby authorized, under rules, limitations, and regulations to be prescribed by him, to loan obsolete or condemned Army rifles, slings, and cartridge belts to posts or camps of organizations composed of honorably discharged soldiers, sailors, or marines, for use by them in connection with the funeral ceremonies of deceased soldiers, sailors, and marines, and for other post ceremonial purposes; and to sell such posts and camps blank ammunition in suitable amounts for said rifles at cost price, plus cost of packing and transportation: Provided, however, That not to exceed ten such rifles shall be issued to any one post or camp. (Acts Feb. 10, 1920, c. 64, § 1; June 5, 1920, c. 240.)

§ 2701. Board of Ordnance and Fortification.

Note 1.—Act March 3, 1919, c. 99, §§ 2-5, making appropriations for fortifications and other works of defense, provides:

"All material purchased under the provisions of this Act shall be of American manufacture, except in cases when, in the judgment of the Secretary of War, it is to the manifest interest of the United States to make purchases abroad, which material shall be admitted free of duty.

"Except as expressly otherwise authorized herein no part of the sums appropriated by this Act shall be expended in the purchase from private manufacturers of any material at a price in excess of 25 per centum more than the cost of manufacturing such material by the Government, or, where such material is not or has not been manufactured by the Government, at a price in excess of 25 per centum more than the estimated cost of manufacture by the Government: Provided, That whenever in the opinion of the President the situation is such as to justify such action he may waive the limitations contained in this section.

"Expenditures for carrying out the provisions of this Act shall not be made in such manner as to prevent the operation of the Government arsenals at their most economical rate of production, except when a special exigency requires the operation of a portion of an arsenal's equipment at a different rate: Provided, That no part of the appropriations made in this Act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch or other time-measuring device a time-study of any job of any such employee between the starting and completion thereof, or of the movements of any such employee while engaged upon such work.

"Appropriations for fortifications and other works of defense, for the armament thereof, and for the procurement of heavy ordnance for trial and service, heretofore made in fortifications or sundry civil appropriation Acts shall not be available for obligation after June 30, 1920, and all unexpended balances of such appropriations which remain upon the books of the Treasury Department on June 30, 1921, shall be covered into the Treasury and carried to the surplus fund."

Note 2.—Section 8 of the same Act provides that "no part of the moneys appropriated in each or any section of this Act shall be used or expended for the purchase or acquirement of any article or articles that at the time of the proposed acquirement can be manufactured or produced in each or any of the Government arsenals of the United States for a sum less than it can be purchased or procured otherwise."

§ 2702a. Demonstration of control of torpedoes and underwater carriers of high explosives.—For demonstrating the control of torpedoes or underwater carriers of high explosives by radiodynamic or radiosonic energy, and for designing, developing, producing, and installing one radiodynamic or radiosonic torpedo unit, \$417,000, to be expended under the direction of the Secretary of War: Provided, That all material acquired by the United States for said purpose, and all products manufactured or adapted therefrom, including said unit when completed, shall be and remain the property of the United States: Provided further, That no part of said sum shall be expended until the United States shall receive from John Hays Hammond, junior, and from the Radio Engineering Company of New York, Incorporated, an unconditional license to use without cost said unit and all repairs and replacements thereof, in the event that the United States shall not acquire as heretofore provided the exclusive rights of said John Hays Hammond, junior, and of said Radio Engineering Company: Provided further, That the services of John Hays Hammond, junior, rendered in connection with said demonstration, shall be free of charge. (Acts July 6, 1916, c. 225, § 1, 39 Stat. 348; March 3, 1919, c. 99, § 7.)

§ 2702b. Operation of contracts for materials.—All orders or contracts for manufacture of material pertaining to approved projects, which are placed with arsenals or other ordnance establishments and which are chargeable to armament of fortifications appropriations, shall be consid-

ered as obligations in all respects in the same manner as provided for similar orders placed with commercial manufacturers. (Act May 21, 1920, c. 194, § 6.)

§ 2702c. Interchange of supplies between Army and Navy.—The interchange without compensation therefor, of military stores, supplies, and equipment of every character, including real estate owned by the Government, is hereby authorized between the Army and Navy upon the request of the head of one service and with the approval of the head of the other service. (Act July 11, 1919, c. 9, § 1.)

§ 2702d. Prosecution of claims by Government employees.—It shall be unlawful for any person who, as a commissioned officer of the Army, or officer or employee of the United States, has at any time since April 6, 1917, been employed in any Bureau of the Government and in such employment been engaged on behalf of the United States in procuring or assisting to procure supplies for the Military Establishment, or who has been engaged in the settlement or adjustment of contracts or agreements for the procurement of supplies for the Military Establishment, within two years next after his discharge or other separation from the service of the Government, to solicit employment in the presentation or to aid or assist for compensation in the prosecution of claims against the United States arising out of any contracts or agreements for the procurement of supplies for said Bureau, which were pending or entered into while the said officer or employee was associated therewith. A violation of this provision of this chapter shall be punished by a fine of not more than \$10,000 or imprisonment for not more than one year, or both: Provided, That all Acts or parts of Acts inconsistent with any of the provisions of this Act are hereby repealed. (Act July 11, 1919, c. 8, § 1.)

TITLE XX.

DIPLOMATIC AND CONSULAR OFFICERS.

CHAPTER 1.

DIPLOMATIC OFFICERS.

§ 2704. Salaries.

Note.—By Act March 4, 1919, c. 123, \$600,000 is appropriated "to enable the President in his discretion and in accordance with such regulation as he may prescribe, to make special allowances by way of additional compensation to consular and diplomatic officers and consular assistants and officers of the United States Court for China in order to adjust their official income to the ascertained cost of living at the posts to which they may be assigned."

§ 2710a. Ambassador to Belgium.—The President be, and he is hereby, authorized to appoint, as the representative of the United States, an ambassador to the Kingdom of Belgium, who shall receive as compensation the sum of \$17,500 per annum. (Res. No. 16, Sept. 29, 1919, c. 72.)

§ 2715a. Student interpreters for legations and consulates in China, Japan and Turkey.—For ten student interpreters in China, who shall be citizens of the United States, and whose duty it shall be to study the Chinese language with a view to supplying interpreters to the legation and consulates in China, at \$1,500 each, \$15,000: Provided, That the method of selecting said student interpreters shall be nonpartisan: And provided further, That upon receiving such appointment each student interpreter shall sign an agreement to continue in the service as interpreter to the legation and consulates in China so long as his services may be required within a period of five years.

For six student interpreters in Japan, who shall be citizens of the United States, and whose duty it shall be to study the Japanese language with a view to supplying interpreters to the embassy and consulates in Japan, at \$1,500 each, \$9,000: Provided, That the method of selecting said student

interpreters shall be nonpartisan: And provided further, That upon receiving such appointment each student interpreter shall sign an agreement to continue in the service as interpreter to the embassy and consulates in Japan so long as his services may be required within a period of five years;

For ten student interpreters in Turkey, who shall be citizens of the United States, and whose duty it shall be to study the language of Turkey and any other language that may be necessary to qualify them for service as interpreters to the embassy and consulates in Turkey, at \$1,500 each, \$15,000: Provided, That the method of selecting said student interpreters shall be nonpartisan: And provided further, That upon receiving such appointment each student interpreter shall sign an agreement to continue in the service as interpreter to the embassy and consulates in Turkey so long as his services may be required within a period of five years.

No person drawing the salary of interpreter or student interpreter as above provided shall be allowed any part of the salary appropriated for any secretary of legation or other officer. (Acts March 4, 1919, c. 123; June 4, 1920, c. 223.)

Note.—See also Barnes' Federal Code, §§ 2714, 2715, 2737, 2738.

CHAPTER 2.

CONSULAR OFFICERS.

§ 2734. Inspectors of consulates.

Note.—The last sentence in this section (with an increase in per diem) is repeated in Act March 4, 1919, c. 123, as follows: "Inspectors shall be allowed actual and necessary expenses for subsistence, itemized, not exceeding an average of \$8 per day."

§ 2735. Citizenship of consular officers and clerks.

Note.—The last sentence of this section—"Every consul general, consul, vice consul, and, wherever practicable, every consular agent shall be an American citizen"—is repeated in Act March 4, 1919, c. 123.

§ 2745a. Salary of consular assistants.—From and after the 1st day of July, 1918, the salaries of consular assistants shall be at the rate of \$1,500 for the first year of continuous service, \$1,650 for the second year of continuous service, \$1,800 for the third year, and \$2,000 for the fourth year of continuous service and for each year thereafter, and section 1704, Revised Statutes, its amendatory Act of June 11, 1874, and all other Acts inconsistent with this provision are hereby so amended. (Act March 4, 1919, c. 123.)

TITLE XXI.

PROVISIONS APPLICABLE TO SEVERAL CLASSES OF PUBLIC OFFICERS AND EMPLOYEES.

CHAPTER 1.

GENERAL PROVISIONS.

§ 2797. President to regulate admissions to civil service.

Note.—Act March 1, 1919, c. 86, § 1, provides that "the period of time during which soldiers, sailors, and marines, both enlisted and drafted men, who prior to entering the service of their country, had a civil service status, and whose names appear upon the eligible list of the Civil Service Commission, shall not be counted against them in the determination of their eligibility for appointment under the law, rules and regulations of the Civil Service Commission now in effect, and at the time of demobilization their civil service status shall be the same as when they entered the service."

§ 2799a. Preference to discharged soldiers, sailors, marines and their wives.—Hereafter in making appointments to clerical and other positions in the Executive branch of the Government in the District of Columbia or elsewhere preference shall be given to honorably discharged soldiers,

sailors, and marines, and widows of such and to the wives of injured soldiers, sailors and marines who themselves are not qualified, but whose wives are qualified to hold such position.

§ 2810a. Joint Commission on Reclassification of Salaries.—A joint commission is created to be known as the "Joint Commission on Reclassification of Salaries," which shall consist of three Senators, who are now Members of the Senate, and three Representatives, who are now Members of the Congress, to be appointed by the President of the Senate, and three representatives, who are now members of the Congress, to be appointed by the Speaker. Said commission shall submit its report and recommendations as early as possible, and, in any event, by the second Monday in January, 1920, and the members of such commission shall receive a compensation at the rate of \$625 per month, unless they are receiving other compensation from the Government. Vacancies occurring in the membership of the commission shall be filled in the same manner as the original appointments.

It shall be the duty of the commission to investigate the rates of compensation paid to civilian employees by the municipal government and the various executive departments and other governmental establishments in the District of Columbia, except the navy yard and the Postal Service, and report by bill or otherwise, as soon as practicable, what reclassification and readjustment of compensation should be made so as to provide uniform and equitable pay for the same character of employment throughout the District of Columbia in the services enumerated.

The commission is authorized to sit during the sessions or recess of Congress, to send for persons and papers, to administer oaths, to summon and compel the attendance of witnesses, and to employ such personal services and incur such expenses as may be necessary to carry out the purposes of this section.

The heads of the various governmental services and the Commissioners of the District of Columbia shall furnish office space and equipment, detail officers and employees, furnish data and information, and make investigations whenever requested by the commission in connection with the purposes of this section.

For payment of the expenses authorized to be incurred, there is appropriated \$25,000, or so much thereof as may be necessary, to be available immediately and to be disbursed upon vouchers approved by the commission; which approval shall be conclusive upon the accounting officers of the Treasury Department. (Act March 1, 1919, c. 86, § 9.)

§ 2814. Double salaries.

Note.—Act June 5, 1920, c. 223, provides that this section "shall not apply to employees of the school garden department of the public schools of the District of Columbia."

§ 2821a. Extra compensation for employees.—All civilian employees of the Governments of the United States and the District of Columbia who receive a total of compensation at the rate of \$2,500 per annum or less, except as otherwise provided in this section, shall receive, during the fiscal year ending June 30, 1921, additional compensation at the rate of \$240 per annum: Provided, That such employees as receive a total private secretary to the Secretary, \$2,500; clerk to the Secretary, \$1,800; private secretary to the Assistant Secretary, \$2,100; chief of division of publications and supplies, \$2,500; appointment clerk, \$2,100; deputy disbursing clerk, \$2,100; assistant chief, division of publications and supplies, \$2,000; librarian, \$2,000; clerks—four of class four, eleven of class three, nine of class two, thirteen of class one, nine at \$1,000 each, four at \$900 each; three telephone switchboard operators; two messengers; five assistant messengers; five messenger boys, at \$480 each; carpenter, \$1,200; engineer, \$1,100; two skilled laborers, at \$840 each; electrician, \$1,000; three firemen; eleven laborers (one of whom, when necessary, shall assist and relieve the elevator conductor); Lieutenant of the watch, \$840; six watchmen; thirteen charwomen; three elevator conductors, at \$720 each; in all, \$140,380.

Such employees as are engaged on piecework, by the hour, or at per diem rates, if otherwise entitled to receive the additional compensation, shall receive the same at the rate to which they are entitled in this section when their fixed rate of pay for the regular working hours and on the

basis of three hundred and thirteen days in the said fiscal year would amount to \$2,500 or less: Provided, That this method of computation shall not apply to any per diem employees regularly paid a per diem for every day in the year.

So much as may be necessary to pay the additional compensation provided in this section to employees of the Government of the United States is appropriated out of any money in the Treasury not otherwise appropriated.

So much as may be necessary to pay the increased compensation provided in this section to employees of the government of the District of Columbia is appropriated, one-half out of any money in the Treasury not otherwise appropriated and one-half out of the revenues of the District of Columbia, except to employees of the Washington Aqueduct and the water department, which shall be paid entirely from the revenues of the water department, and to employees of the minimum wage board and the playgrounds department, which shall be paid wholly out of the revenues of the District of Columbia.

So much as may be necessary to pay the increased compensation provided in this section to persons employed under trust funds who may be construed to be employees of the Government of the United States or of the District of Columbia is authorized to be paid, respectively, from such trust funds.

Reports shall be submitted to Congress on the first day of the next regular session showing for the first four months of the fiscal year the average number of employees in each department, bureau, office, or establishment receiving the increased compensation at the rate of \$240 per annum and the average number by grades receiving the same at each other rate. (Act May 29, 1920, c. 214, § 6.)

§ 2832a. Designation of holidays.—Wednesday, September 17, 1919, being the day of the grand review of the First Division of the American Expeditionary Forces, is hereby made a legal public holiday in the District of Columbia to all intents and purposes in the same manner as is Christmas, the 1st day of January, the 22nd day of February, the 30th day of May, the 4th day of July, and the first Monday in September as are now by law public holidays. (Res. No. 12, Sept. 15, 1919, c. 57.)

Note.—See §§ 2832, 9086.

CHAPTER 3.

THE CLASSIFIED CIVIL SERVICE.

§ 2861. Headquarters for Commission.

Note.—Act May 29, 1920, c. 214, § 1, provides that "the duty placed upon the Secretary of the Interior by this section, shall be performed on and after July 1, 1920, by the Civil Service Commission."

§ 2861a. Detail of employees to Commission.—No detail of clerks or other employees from the executive departments or other Government establishments in the District of Columbia, to the Civil Service Commission or its field force, excepting the fourth district, for the performance of duty in the District of Columbia, shall be made for or during the fiscal year 1921. The Civil Service Commission shall, however, have power in case of emergency to transfer or detail any of its employees herein provided for to or from its office force, field force, or rural carrier examining board. (Act May 29, 1920, c. 214, § 1.)

§ 2861b. Detail of civil service employees outside District of Columbia.—In expending appropriations made in this Act persons in the classified service in the District of Columbia shall not be detailed for service outside of the District of Columbia except for or in connection with work pertaining directly to the service at the seat of government of the department or other Government establishment from which the detail is made: Provided, That nothing in this section shall be deemed to apply to the investigation of any matter or the preparation, prosecution, or defense of any suit by the Department of Justice. (Act May 29, 1920, c. 214, § 5.)

§ 2876. Bureau of Efficiency.

Note.—Act Nov. 4, 1919, c. 93, § 3, provides that "the Bureau of Efficiency is directed to investigate the scope and character of statistics needed by the Government, and the methods of collecting, compiling, and presenting statistical information by the several executive departments and independent Government establishments and submit to Congress a report of its findings together with such recommendations as it deems proper."

§ 2876a. Persons entitled to retirement and annuity.—Beginning at the expiration of ninety days next following the passage of this Act, all employees in the classified civil service of the United States who have on that date, or shall have on any date thereafter, reached the age of seventy years and rendered at least fifteen years of service computed as prescribed in section 3 of this Act, shall be eligible for retirement on an annuity as provided in section 2 hereof: Provided, That mechanics, city and rural letter carriers, and post-office clerks shall be eligible for retirement at sixty-five years of age, and railway postal clerks at sixty-two years of age, if said mechanics, city and rural letter carriers, post-office clerks, and railway postal clerks shall have rendered at least fifteen years of service computed as prescribed in section 3 of this Act.

The provisions of this Act shall include superintendents of United States national cemeteries, employees of the Superintendent of the United States Capital Buildings and Grounds, the Library of Congress, and the Botanic Gardens, excepting persons appointed by the President and confirmed by the Senate, and may be extended by Executive order, upon recommendation of the Civil Service Commission, to include any employee or group of employees in the civil service of the United States not classified at the time of the passage of this Act. The President shall have power, in his discretion, to exclude from the operation of this Act any employee or group of employees in the classified civil service whose tenure of office or employment is intermittent or of uncertain duration.

All regular annual employees of the municipal government of the District of Columbia, appointed directly by the commissioners, or by other competent authority including those receiving per diem compensation paid out of general appropriations, but whose services are continuous, and including public-school employees, excepting school officers and teachers, shall be included in the provisions of this Act, but members of the police and fire departments shall be excluded therefrom.

Postmasters, and such employees of the Lighthouse Service as come within the provisions of section 6 of the Act of June 20, 1918, entitled, "An Act to authorize aids to navigation and for other works in the Lighthouse Service, and for other purposes," shall not be included in the provisions of this Act. (Act May 22, 1920, c. 195, § 1.)

Note.—§ 2 is now § 2876b; § 3 is now § 2876c.

§ 2876b. Classification of employees and determination of amount of annuity.—For the purpose of determining the amount of annuity which retired employees shall receive, the following classifications and rates shall be established:

Class A shall include all employees to whom this Act applies who shall have served the United States for a total period of thirty years or more. The annuity to a retired employee in this class shall equal 60 per centum of such employee's average annual basic salary, pay, or compensation from the United States for the ten years next preceding the date on which he or she shall retire: Provided, That in no case shall an annuity in this class exceed \$720 per annum or be less than \$360 per annum.

Class B shall include all employees to whom this Act applies who shall have served the United States for a total period of twenty-seven years or more, but less than thirty years. The annuity to a retired employee in this class shall equal 54 per centum of such employee's average annual basic salary, pay, or compensation from the United States for the ten years next preceding the date on which he or she shall retire: Provided, That in no case shall an annuity in this class exceed \$648 per annum, or be less than \$324 per annum.

Class C shall include all employees to whom this Act applies who shall have served the United States for a total period of twenty-four years or more, but less than twenty-seven years. The annuity to a retired employee

in this class shall equal 48 per centum of such employee's average annual basic salary, pay, or compensation from the United States for the ten years next preceding the date on which he or she shall retire: Provided, That in no case shall an annuity in this class exceed \$576 per annum, or be less than \$288 per annum.

Class D shall include all employees to whom this Act applies who shall have served the United States for a total period of twenty-one years or more, but less than twenty-four years. The annuity to a retired employee in this class shall equal 42 per centum of such employee's average annual basic salary, pay, or compensation from the United States for the ten years next preceding the date on which he or she shall retire: Provided, That in no case shall an annuity in this class exceed \$504 per annum, or be less than \$252 per annum.

Class E shall include all employees to whom this Act applies who shall have served the United States for a total period of eighteen years or more, but less than twenty-one years. The annuity to a retired employee in this class shall equal 36 per centum of such employee's average annual basic salary, pay, or compensation from the United States for the ten years next preceding the date on which he or she shall retire: Provided, That in no case shall an annuity in this class exceed \$432 per annum, or be less than \$216 per annum.

Class F shall include all employees to whom this Act applies who shall have served the United States for a total period of fifteen years or more, but less than eighteen years. The annuity to a retired employee in this class shall equal 30 per centum of such employee's average annual basic salary, pay, or compensation from the United States for the ten years next preceding the date on which he or she shall retire: Provided, That in no case shall an annuity in this class exceed \$360 per annum, or be less than \$180 per annum.

The term "basic salary, pay, or compensation," wherever used in this Act shall be construed as to exclude from the operation of the Act all bonuses, allowances, overtime pay, or salary, pay, or compensation given in addition to the base pay of the positions as fixed by law or regulation. (Act May 22, 1920, c. 195, § 2.)

§ 2876c. Computation of length of service.—For the purposes of this Act and subject to the provisions of section 10 hereof, the period of service shall be computed from the date of original employment, whether as a classified or unclassified employee in the civil service of the United States, and shall include periods of service at different times and services in one or more departments, branches, or independent offices of the Government, and shall also include service performed under authority of the United States beyond seas, and honorable service in the Army, Navy, Marine Corps, or Coast Guard of the United States: Provided, That in the case of an employee who is eligible for and elects to receive a pension under any law, or compensation under the War Risk Insurance Act, the period of his or her military or naval service upon which such pension or compensation is based shall not be included for the purpose of assignment to classes defined in section 2 hereof, but nothing contained in this Act shall be so construed as to affect in any manner his or her right to a pension, or to compensation under the War Risk Insurance Act, in addition to the annuity herein provided.

It is further provided that in computing length of service for the purposes of this Act all periods of separation from the service and so much of any period of leave of absence as may exceed six months shall be excluded, and that in the case of substitutes in the Postal Service only periods of active employment shall be included. (Act May 22, 1920, c. 195, § 3.)

Note.—§ 2 is now § 2876b; § 10 is now § 2876j.

§ 2876d. Officer for enforcement of Act; appeals.—For the purpose of administration, except as otherwise provided herein, the Commissioner of Pensions, under the direction of the Secretary of the Interior, be, and is hereby, authorized and directed to perform, or cause to be performed, any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this Act into full force and effect. An appeal to the Secretary of the Interior

shall lie from the final action or order of the Commissioner of Pensions affecting the rights or interests of any person or of the United States under this Act, the procedure on appeal to be as prescribed by the Commissioner of Pensions, with the approval of the Secretary of the Interior. (Act May 22, 1920, c. 195, § 4.)

§ 2876e. Employees totally disabled; bar of workmen's compensation.—

Any employee to whom this Act applies who shall have served for a total period of not less than fifteen years, and who, before reaching the retirement age as fixed in section 1 hereof, becomes totally disabled for useful and efficient service by reason of disease or injury not due to vicious habits, intemperance, or willful misconduct on the part of the employee, shall upon his or her own application or upon the request or order of the head of the department, branch, or independent office concerned, be retired on an annuity under the provisions of section 2 hereof: Provided, however, That no employee shall be retired under the provisions of this section until examined by a medical officer of the United States or a duly qualified physician or surgeon or board of physicians or surgeons designated by the Commissioner of Pensions for that purpose and found to be disabled in the degree and in the manner specified herein.

Every annuitant retired under the provisions of this section, unless the disability for which retired is permanent in character, shall, at the expiration of one year from the date of such retirement and annually thereafter until reaching the retirement age, as defined in section 1 hereof, be examined under direction of the Commissioner of Pensions by a medical officer of the United States, or a duly qualified physician or surgeon or board of physicians or surgeons designated by the Commissioner of Pensions for that purpose, in order to ascertain the nature and degree of the annuitant's disability, if any; if the annuitant recovers and is restored to his or her former earning capacity before reaching the retirement age, payment of the annuity shall be discontinued from the date of the medical examination showing such recovery; if the annuitant fails to appear for examination as required under this section, payment of the annuity shall be suspended until continuance of the disability has been satisfactorily established. The Commissioner of Pensions is hereby authorized to order or direct at any time such medical or other examination as he shall deem necessary to determine the facts relative to the nature and degree of disability of any employee retired on an annuity under this section.

Fees for examinations made under the provisions of this section by physicians or surgeons who are not medical officers of the United States shall be fixed by the Commissioner of Pensions, and such fees, together with the employee's reasonable traveling and other expenses incurred in order to submit to such examinations, shall be paid out of the appropriations for the cost of administering this Act.

In all cases where the annuity is discontinued under the provisions of this section before the annuitant has received a sum equal to the total amount of his or her contributions with accrued interest, the difference shall be paid to the retired employee, or to his or her estate, upon application therefor in such form and manner as the Commissioner of Pensions may direct.

No person shall be entitled to receive an annuity under the provisions of this Act, and compensation under the provisions of the Act of September 7, 1916, entitled "An Act to provide compensation for employees of the United States suffering injuries, while in the performance of their duties, and for other purposes," covering the same period of time; but this provision shall not be so construed as to bar the right of any claimant to the greater benefit conferred by either Act for any part of the same period of time. (Act May 22, 1920, c. 195, § 5.)

Note.—§ 1 is now § 2876a; § 2 is now § 2876b.

§ 2876f. Cessation of service by annuitant.—All employees to whom this Act applies shall, upon the expiration of ninety days next succeeding its passage, if of retirement age, or thereafter on arriving at retirement age as defined in section 1 hereof, be automatically separated from the service, and all salary, pay, or compensation shall cease from that date, and it shall be the duty of the head of each department, branch, or independent

office of the Government to notify such employees under his direction of the date of such separation from the service at least sixty days in advance thereof: Provided, That no person employed in the executive departments within the District of Columbia, retired under the provisions of this Act during the fiscal year ending June 30, 1921, shall be replaced by additional employees, but if the exigencies of the service so require, places made vacant by such retirement may be filled by promotion or transfer of eligible employees already in the service: Provided, That if within sixty days after the passage of this Act or not less than thirty days before the arrival of an employee at the age of retirement, the head of the department, branch, or independent office of the Government in which he or she is employed certifies to the Civil Service Commission that by reason of his or her efficiency and willingness to remain in the civil service of the United States the continuance of such employee therein would be advantageous to the public service, such employee may be retained for a term not exceeding two years upon approval and certification by the Civil Service Commission, and at the end of the two years he or she may, by similar approval and certification, be continued for an additional term not exceeding two years, and so on: Provided, however, That at the end of ten years after this Act becomes effective no employee shall be continued in the civil service of the United States beyond the age of retirement defined in section 1 hereof for more than four years. (Act May 22, 1920, c. 195, § 6.)

Note.—§ 1 is now § 2876a.

§ 2876g. Application for retirement and annuity.—Every employee who is or hereafter becomes eligible for retirement because of age as provided in this Act, shall, within sixty days after its passage or thirty days before reaching the retirement age, or at any time thereafter, file with the Commissioner of Pensions, in such form as he may prescribe, an application for an annuity, supported by a certificate from the head of the department, branch, or independent office of the Government in which the applicant has been employed, stating the age and period or periods of service of the applicant and salary, pay, or compensation received during such periods, as shown by the official records: Provided, however, That in the case of an employee who is to be continued in the civil service of the United States beyond the retirement age as provided in section 6 hereof, he or she may make application for retirement at any time within such period of continuance in the service; but nothing contained in this Act shall be construed to prevent the compulsory retirement of such employee when in the judgment of the head of the department, branch, or independent office in which he or she is employed such retirement would promote the best interests of the service.

Upon receipt of satisfactory evidence the Commissioner of Pensions shall forthwith adjudicate the claim of the applicant, and if title to annuity be established, a proper certificate shall be issued to the annuitant under the seal of the Department of the Interior.

Annuities granted under this Act for retirement on account of age shall commence from the date of separation from the service on or after the date this Act shall take effect, and shall continue during the life of the annuitant. Annuities granted for disability under the provisions of section 5 hereof shall be subject to the limitations specified in said section. (Act May 22, 1920, c. 195, § 7.)

Note.—§ 5 is now § 2876e; § 6 is now § 2876f.

§ 2876h. Civil service retirement and disability fund.—Beginning on the first day of the third month next following the passage of this Act and monthly thereafter there shall be deducted and withheld from the basic salary, pay, or compensation of each employee to whom this Act applies a sum equal to 2½ per centum of such employee's basic salary, pay, or compensation. The Secretary of the Treasury shall cause the said deductions to be withheld from all specific appropriations for the particular salaries or compensation from which the deductions are made and from all allotments out of lump-sum appropriations for payments of such salaries or compensation for each fiscal year, and said sums shall be transferred on the books of the Treasury Department to the credit of a special fund

to be known as "the civil-service retirement and disability fund," and said fund is hereby appropriated for the payment of annuities, refunds, and allowances as provided in this Act.

The Secretary of the Treasury is hereby directed to invest from time to time in interest-bearing securities of the United States, such portions of the "civil-service retirement and disability fund" hereby created as in his judgment may not be immediately required for the payment of annuities, refunds, and allowances as herein provided, and the income derived from such investments shall constitute a part of said fund for the purpose of paying annuities and of carrying out the provisions of section 11 of this Act.

The Secretary of the Treasury is hereby authorized and empowered in carrying out the provisions of this Act to supplement the individual contributions of employees with moneys received in the form of donations, gifts, legacies, bequests, or otherwise, and to receive, invest, and disburse for the purposes of this Act all moneys which may be contributed by private individuals or corporations or organizations for the benefit of civil-service employees generally or any special class of employees. (Act May 25, 1920, c. 195, § 8.)

Note.—§ 11 is now § 2876k.

§ 2876l. Assent of employees to salary deductions for fund.—Every employee coming within the provisions of this Act shall be deemed to consent and agree to the deductions from salary, pay, or compensation as provided in section 8 hereof, and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services rendered by such employee during the period covered by such payment, except the right to the benefits to which he or she shall be entitled under the provisions of this Act, notwithstanding the provisions of sections 167, 168, and 169 of the Revised Statutes of the United States, and of any other law, rule, or regulation affecting the salary, pay, or compensation of any person or persons employed in the civil service to whom this Act applies. (Act May 22, 1920, c. 195, § 9.)

Note.—§ 8 is now § 2876h.

§ 2876j. Credit for past service.—Upon the transfer of any employee from an unclassified to a classified status, or upon the reinstatement of a former employee, credit for past service rendered subsequent to the date this Act shall take effect, or for any part thereof, shall be granted only upon deposit with the Treasurer of the United States of the amount of such deductions with interest as provided in this Act as would have been made for the periods of actual service, or part thereof, for which credit is to be given, but such interest shall not be computed for periods of separation from the service: Provided, That failure to make such deposit shall not deprive the employee of credit for any past service rendered prior to the date this Act shall become operative, and to which he or she would otherwise be entitled. (Act May 22, 1920, c. 195, § 10.)

§ 2876k. Return of salary deductions on death or leaving classified service.—In the case of an employee in the classified civil service of the United States who shall be transferred to an unclassified position, and in the case of any employee to whom this Act applies who shall become absolutely separated from the service before becoming eligible for retirement on an annuity, the total amount of deductions of salary, pay, or compensation with accrued interest computed at the rate of 4 per centum per annum, compounded on June 30 of each fiscal year, shall, upon application, be returned to such employee: Provided, That all money so returned to an employee must be redeposited with interest before such employee may derive any benefit under the provisions of this Act, upon reinstatement or retransfer to a classified position; and in case an annuitant shall die without having received in annuities an amount equal to the total amount of the deductions from his or her salary, pay, or compensation, together with interest thereon at 4 per centum per annum compounded as herein provided up to the time of his or her death, the excess of the said accumulated deductions over the said annuity payments shall be paid in one sum to his or her legal representatives upon the establishment of a valid claim therefor; and in case an employee shall die without having

reached the retirement age or without having established a valid claim for annuity, the total amount of deductions with accrued interest as herein provided shall be paid to the legal representatives of such employee: Provided, That if in case of death the amount of deductions to be paid under the provisions of this section does not exceed \$300, and if there has been no demand upon the Commissioner of Pensions by a duly appointed executor or administrator, the payment may be made, after the expiration of three months from date of death, to such person or persons as may appear in the judgment of the Commissioner of Pensions to be legally entitled to the proceeds of the estate, and such payment shall be a bar to recovery by any other person. (Act May 22, 1920, c. 195, § 11.)

§ 2876l. Mode of payment of annuities.—Annuities granted under the terms of this Act shall be due and payable monthly on the first business day of the month following the month or other period for which the annuity shall have accrued, the payment of all annuities, refunds, and allowances granted hereunder shall be made by checks drawn and issued by the disbursing clerk for the payment of pensions in such form and manner and with such safeguards as shall be prescribed by the Secretary of the Interior in accordance with the laws, rules, and regulations governing accounting that may be found applicable to such payments. (Act May 22, 1920, c. 195, § 12.)

§ 2876m. Records and reports.—It shall be the duty of the head of each executive department and the head of each independent establishment of the Government not within the jurisdiction of any executive department to report to the Civil Service Commission in such manner as said commission may prescribe, the name and grade of each employee to whom this Act applies in or under said department or establishment who shall be at any time in a nonpay status, showing the dates such employee was in a nonpay status, and the amount of salary, pay, or compensation lost by the employee by reason of such absence. The Civil Service Commission shall keep a record of appointments, transfers, changes in grade, separations from the service, reinstatements, loss of pay, and such other information concerning individual service as may be deemed essential to a proper determination of rights under this Act, and shall furnish the Commissioner of Pensions such reports therefrom as he shall from time to time request as necessary to the proper adjustment of any claim hereunder, and shall prepare and keep all needful tables and records required for carrying out the provisions of this Act, including data showing the mortality experience of the employees in the service and the percentage of withdrawal from such service, and any other information that may serve as a guide for future valuations and adjustments of the plan for the retirement of employees under this Act. The Commissioner of Pensions shall make a detailed comparative report annually showing all receipts and disbursements on account of refunds, allowances, and annuities, together with the total number of persons receiving annuities and the amounts paid them. (Act May 22, 1920, c. 195, § 13.)

§ 2876n. Assignability and exemption of annuity.—None of the moneys mentioned in this Act shall be assignable, either in law or equity, or be subject to execution, levy, or attachment, garnishment, or other legal process. (Act May 22, 1920, c. 195, § 14.)

§ 2876o. Appropriation for enforcement of Act.—There is hereby authorized to be appropriated, from any moneys in the Treasury not otherwise appropriated, the sum of \$100,000 for salaries and for clerical and other services, the purchase of books, office equipment, stationery, and other supplies, and all other expenses necessary in carrying out the provisions of this Act, including traveling expenses and expenses of medical and other examinations as provided in section 5 hereof. The Secretary of the Interior shall submit annually to the Secretary of the Treasury estimates of the appropriations necessary to continue this Act in full force and effect. (Act May 22, 1920, c. 195, § 15.)

Note.—§ 5 is now § 2876e.

§ 2876p. Board of Actuaries.—The Commissioner of Pensions, with the approval of the Secretary of the Interior, is hereby authorized and directed to select three actuaries, one of whom shall be the Government actuary, to be known as the Board of Actuaries, whose duty it shall be to annually report upon the actual operations of this Act, with authority to recommend to the Commissioner of Pensions such changes as in its judgment may be deemed necessary to protect the public interest and maintain the system upon a sound financial basis. It shall be the duty of the Commissioner of Pensions to submit with his annual report to Congress the recommendations of the Board of Actuaries. It shall be the duty of the Board of Actuaries to make a valuation of the "civil-service retirement and disability fund" at the end of the first year following the passage of this Act and at intervals of every five years thereafter, or oftener, if deemed necessary by the Commissioner of Pensions. The compensation of the members of the Board of Actuaries, exclusive of the Government actuary, shall be fixed by the Commissioner of Pensions with the approval of the Secretary of the Interior. (Act May 22, 1920, c. 195, § 16.)

§ 2876q. Repeal of laws.—All laws and parts of laws inconsistent with this Act are hereby repealed. (Act May 22, 1920, c. 195, § 17.)

TITLE XXIII.

SEAT OF GOVERNMENT.

§ 2903. Light, heat and power.

Note 1.—Act July 11, 1919, c. 9, § 1, provides that "hereafter the provisions of the Sundry Civil Act, approved July 1, 1918, providing for the establishment of a Government fuel yard in the District of Columbia, shall not apply to the fuel required for the Naval Establishment, except the naval hospital, in the District of Columbia."

Note 2.—Act July 19, 1919, c. 24, § 1, provides that "rentals shall not be paid for such gas governors greater than 35 per centum of the actual value of the gas saved thereby, which saving shall be determined by such tests as the Secretary of the Treasury shall direct: Provided further, That the Secretary of the Treasury is authorized to contract for the purchase of fuel for public buildings under the control of the Treasury Department in advance of the availability of the appropriation for the payment thereof. Such contracts, however, shall not exceed the necessities of the current fiscal year."

Said Act further provides that "Secretary of the Interior is authorized to contract for the purchase of fuel for the Government fuel yard in advance of the availability of the appropriation for the payment thereof. Such contracts, however, shall not exceed the necessities of the current year. Authority is hereby granted to the Secretary of the Interior to exchange, as part consideration in the purchase of new equipment, motor vehicles and any other equipment used by said fuel yards."

§ 2941a. Use of old furniture.—All furniture now owned by the United States in other public buildings or in buildings rented by the United States shall be used, so far as practicable, whether it corresponds with the present regulation plan for furniture or not. (Act July 19, 1919, c. 24, § 1.)

§ 2952. Capitol police.

Note.—Act July 19, 1919, c. 24, § 1, provides that appointment of such police "shall be made by the Sergeants at Arms of the two Houses and the Superintendent of the Capitol Building and Grounds, and shall be made solely on account of efficiency and special qualifications."

TITLE XXV.

THE TERRITORIES.

CHAPTER 2.

THE TERRITORY OF ALASKA.

§ 3146a. **Sale of male reindeer.**—The Commissioner of Education is authorized to sell such of the male reindeer belonging to the Government as he may deem advisable and to use the proceeds in the purchase of female reindeer belonging to missions and in the distribution of reindeer to natives in those portions of Alaska in which reindeer have not yet been placed and which are adapted to the reindeer industry. (Act July 19, 1919, c. 24, § 1.)

TITLE XXVIII.

CITIZENSHIP.

§ 3404a. **Indian soldiers and sailors.**—Every American Indian who served in the Military or Naval Establishments of the United States during the war with the Imperial German Government, and who has received or who shall hereafter receive an honorable discharge, if not now a citizen and if he so desires, shall, on proof of such discharge and after proper identification before a court of competent jurisdiction, and without other examination except as prescribed by said court, be granted full citizenship with all the privileges pertaining thereto, without in any manner impairing or otherwise affecting the property rights, individual or tribal, of any Indian or his interest in tribal or other Indian property. (Act Nov. 6, 1919, c. 85, § 1.)

§ 3412. Repealed by Act June 4, 1920, c. 223, § 5. See § 6988 for remainder of said Act of 1920.

TITLE XXXI.

INDIANS.

CHAPTER 1.

OFFICERS OF INDIAN AFFAIRS.

§ 3456a. **Clerk for disbursing agent.**—Any disbursing agent of the Indian Service, with the approval of the Commissioner of Indian Affairs, may authorize a clerk employed in his office to act in his place and discharge all the duties devolved upon him by law or regulations during such time as he may be unable to perform the duties of his position because of absence, physical disability, or other disqualifying circumstances: Provided, That the official bond given by the disbursing agent to the United States shall be held to cover and apply to the acts of the employee authorized to act in his place, who shall give bond to the disbursing agent in such sums as the latter may require, and with respect to any and all acts performed by him while acting for his principal, shall be subject to all the liabilities and penalties prescribed by law for official misconduct of disbursing agents. (Act Feb. 14, 1920, c. 75, § 1.)

§ 3462. Employees' quarters.—The Secretary of the Interior is authorized to allow employees in the Indian Service, who are furnished quarters, necessary heat and light for such quarters without charge, such heat and light to be paid for out of the fund chargeable with the cost of heating and lighting other buildings at the same place: And provided further, That the amount so expended for agency purposes shall not be included in the maximum amounts for compensation of employees prescribed by section 1, Act of August 24, 1912. (Acts May 18, 1916, c. 125, § 1, 39 Stat. 125; May 25, 1918, c. 86, § 1, 40 Stat.; June 30, 1919, c. 4, § 1; Feb. 14, 1920, c. 75, § 1.)

§ 3466. Persons to superintend farming.

Note.—The last proviso in this section is repeated in Act Feb. 14, 1920, c. 75, § 1.

§ 3462a. Coal for Indian Service.—The cost of inspection, storage, transportation, and so forth, of coal for the Indian Service shall be paid from the support fund of the school or agency for which the coal is purchased. (Act Feb. 14, 1920, c. 75, § 1.)

CHAPTER 2.

PERFORMANCE OF ENGAGEMENTS BETWEEN THE UNITED STATES AND INDIANS.

§ 3502a. Roll of tribal membership.—The Secretary of the Interior is hereby authorized, wherever in his discretion such action would be for the best interest of the Indians, to cause a final roll to be made of the membership of any Indian tribe; such rolls shall contain the ages and quantum of Indian blood, when approved by the said Secretary are hereby declared to constitute the legal membership of the respective tribes for the purpose of segregating the tribal funds as provided in section 28 of the Indian Appropriation Act approved May 25, 1918 (Fortieth Statutes at Large, pages 591 and 592), and shall be conclusive both as to ages and quantum of Indian blood: Provided, That the foregoing shall not apply to the Five Civilized Tribes or to the Osage Tribe of Indians, or to the Chippewa Indians of Minnesota, or the Menominee Indians of Wisconsin. (Act June 30, 1920, c. 4, § 1.)

CHAPTER 3.

GOVERNMENT AND PROTECTION OF INDIANS.

§ 3522a. Creation of Indian reservations.—Hereafter no public lands of the United States shall be withdrawn by Executive Order, proclamation, or otherwise, for or as Indian reservation except by Act of Congress. (Act June 30, 1919, c. 4, § 27.)

§ 3542. Contagious and infectious diseases.

Note.—Act June 30, 1919, c. 4, § 1, provides for "the relief and care of destitute Indians not otherwise provided for, and for the prevention and treatment of tuberculosis, trachoma, smallpox, and other contagious and infectious diseases, including transportation of patients to and from hospitals and sanatoria, \$375,000, of which \$10,000 shall be used to care for old and indigent Indians in western Washington, and of which sum \$25,000 shall be immediately available: Provided, That not to exceed \$45,000 of said amount may be expended in the construction and equipment of new hospitals at a unit cost of not exceeding \$15,000: Provided further, That this appropriation may be used also for general medical and surgical treatment of Indians, including the maintenance and operation of general hospitals, where no other funds are applicable or available for that purpose."

§ 3552. Live stock.—Where restricted Indians are in possession or control of live stock purchased for or issued to them by the Government, or the increase therefrom, such stock shall not be sold, transferred, mortgaged, or otherwise disposed of, except with the consent in writing of the superintendent or other officer in charge of the tribe to which the owner or possessor of the live stock belongs, and all transactions in violation of this provision shall be void. All such live stock so purchased or issued and the increase therefrom belonging to restricted Indians and grazed in

the Indian country shall be branded with the ID or reservation brand of the jurisdiction to which the owners of such stock belong, and shall not be removed from the Indian country except with the consent in writing of the superintendent or other officer in charge of the tribe to which the owner or possessor of such live stock belongs, or by order of the Secretary of War, in connection with the movement of troops. Every person who violates the provisions of this section by selling or otherwise disposing of such stock, purchasing, or otherwise acquiring an interest therein, or by removing such stock from the Indian country, shall be fined in any sum not more than \$1,000, or imprisonment for not more than six months, or both such fine and imprisonment. (R. S. § 2138; Acts March 3, 1865, c. 127, § 8, 13 Stat. 563; June 30, 1919, c. 4, § 1.)

§ 3553. Intoxicating liquors.

Note.—Act June 30, 1919, c. 4, § 1, provides that "on and after July 1, 1919, possession by a person of intoxicating liquors in the Indian country or where the introduction is or was prohibited by treaty or Federal statute shall be an offense and punished in accordance with the provisions of the Acts of July 23, 1892 (Twenty-seventh Statutes at Large, page 260), and January 30, 1897 (Twenty-ninth Statutes at Large, page 506). Provided further, That the provisions of Article IX of the agreement with the Nez Perce Indians of Idaho, dated May 1, 1893, and ratified and confirmed by the Act of Congress approved August 15, 1894 (Twenty-eighth Statutes at Large, pages 286-330), prohibiting the sale of intoxicating liquors to those Indians or its introduction upon their lands, are hereby extended for the period of ten years."

§ 3580. Expenditure of school appropriations.

Note.—Act June 30, 1919, c. 4, § 1, provides that "hereafter, except for pay of superintendents and for transportation of goods and supplies and transportation of pupils, not more than \$225 shall be expended from appropriations made in this Act, or any other Act, for the annual support and education of any one pupil in any Indian school, unless the attendance in any school shall be less than two hundred pupils, in which case the Secretary of the Interior may authorize a per capita expenditure of not to exceed \$250: Provided, That the total amount appropriated for the support of such school shall not be exceeded: Provided further, That the number of pupils in any school entitled to the per capita allowance hereby provided for shall be based upon average attendance, determined by dividing the total daily attendance by the number of days the school is in session."

§ 3582a. Discontinuance of boarding schools.—All reservation and non-reservation boarding schools, with an average attendance of less than forty-five and eighty pupils, respectively, shall be discontinued on or before the beginning of the fiscal year 1921. The pupils in schools so discontinued shall be transferred first, if possible, to Indian day schools or State public schools; second, to adjacent reservation or nonreservation boarding schools, to the limit of the capacity of said schools: Provided further, That all day schools with an average attendance of less than eight be, and are hereby, discontinued on or before the beginning of the fiscal year 1921: And provided further, That all moneys appropriated for any school discontinued pursuant to this Act or for other cause, shall be returned immediately to the Treasury of the United States. (Act Feb. 14, 1920, c. 75, § 1.)

§ 3583. Regulations for school attendance.—Hereafter the Secretary of the Interior is authorized to make and enforce such rules and regulations as may be necessary to secure the enrollment and regular attendance of eligible Indian children who are wards of the Government in schools maintained for their benefit by the United States or in public schools. (Acts July 13, 1892, c. 164, § 1, 27 Stat. 143; Feb. 14, 1920, c. 75, § 1.)

§ 3588. Transportation of pupils at government expense.

Note.—Act June 30, c. 4, § 1, provides "for collection and transportation of pupils to and from Indian and public schools, and for placing school pupils, with the consent of their parents, under the care and control of white families qualified to give them moral, industrial, and educational training, \$72,000: Provided, That not exceeding \$5,000 of this sum may be used for obtaining remunerative employment for Indian youths and, when necessary, for payment of transportation and other expenses to their places of employment: pupils shall be refunded and shall be returned to the appropriation from: Provided further, That where practicable the transportation and expenses of pupil shall be refunded and shall be returned to the appropriation from which paid. The provisions of this section shall also apply to native Indian pupils of school age under twenty-one years of age brought from Alaska."

§ 3603a. **Moneys for irrigation projects.**—The Secretary of the Interior is hereby authorized and directed to require the owners of irrigable land under any irrigation system heretofore or hereafter constructed for the benefit of Indians and to which water for irrigation purposes can be delivered to begin partial reimbursement of the construction charges, where reimbursement is required by law, at such times and in such amounts as he may deem best; all payments hereunder to be credited on a per acre basis in favor of the land in behalf of which such payments shall have been made and to be deducted from the total per acre charge assessable against said land: Provided, That no reimbursable moneys appropriated in this Act for irrigation works shall be used for any purpose other than operation and maintenance unless the Secretary of the Interior has prescribed rules and regulations for the payment of the per acre charge by all the users of water under the project, to apply on the reimbursement of the total amount expended: And provided further, That the said Secretary shall submit a report to Congress on the first Monday in December, 1921, showing the irrigation projects or units thereof where payment of the construction charge has been required. (Act Feb. 14, 1920, c. 75, § 1.)

§ 3614a. **Lease of unallotted lands.**—The Secretary of the Interior be, and hereby is, authorized and empowered, under general regulations to be fixed by him and under such terms and conditions as he may prescribe, not inconsistent with the terms of this section, to lease to citizens of the United States or to any association of such persons or to any corporation organized under the laws of the United States or of any State or Territory thereof, any part of the unallotted lands within any Indian reservation within the States of Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Washington, or Wyoming, heretofore withdrawn from entry under the mining laws for the purpose of mining for deposits of gold, silver, copper, and other valuable metalliferous minerals, which leases shall be irrevocable, except as herein provided, but which may be declared null and void upon breach of any of their terms.

After the passage and approval of this section, unallotted lands, or such portion thereof as the Secretary of the Interior shall determine, within Indian reservations heretofore withheld from disposition under the mining laws may be declared by the Secretary of the Interior to be subject to exploration for the discovery of deposits of gold, silver, copper, and other valuable metalliferous minerals by citizens of the United States, and after such declaration mining claims may be located by such citizens in the same manner as mining claims are located under the mining laws of the United States: Provided, That the locators of all such mining claims, or their heirs, successors or assigns shall have a preference right to apply to the Secretary of the Interior for a lease, under the terms and conditions of this section, within one year after the date of the location of any mining claim, and any such locator who shall fail to apply for a lease within one year from the date of location shall forfeit all rights to such mining claim: Provided further, That duplicate copies of the location notice shall be filed within sixty days with the superintendent in charge of the reservation on which the mining claim is located, and that application for a lease under this section may be filed with such superintendent for transmission through official channels to the Secretary of the Interior: And provided further, That lands containing springs, water holes, or other bodies of water needed or used by the Indians for watering live stock, irrigation, or water-power purposes shall not be designated by the Secretary of the Interior as subject to entry under this section.

Leases under this section shall be for a period of twenty years, with the preferential right in the lessee to renew the same for successive periods of ten years upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the time of the expiration of such periods: Provided, That the lessee, may in the discretion of the Secretary of the Interior, be permitted at any time to make written relinquishment of all rights under such a lease and upon acceptance thereof be thereby relieved of all future obligations under said lease.

In addition to areas of mineral land to be included in leases under this section the Secretary of the Interior, in his discretion, may grant to the

lessee the right to use, during the life of the lease, subject to the payment of an annual rental of not less than \$1 per acre, a tract of unoccupied land, not exceeding forty acres in area, for camp sites, milling, smelting, and refining works, and for other purposes connected with and necessary to the proper development and use of the deposits covered by the lease.

The Secretary of the Interior, in his discretion, in making any lease under this section, may reserve to the United States the right to lease for a term not exceeding that of the mineral lease, the surface of the lands embraced within such lease under existing law or laws hereafter enacted, in so far as said surface is not necessary for use of the lessee in extracting and removing the deposits therein: Provided, That the said Secretary, during the life of the lease, is hereby authorized to issue such permits for easements herein provided to be reserved.

Any successor in interest or assignee of any lease granted under this section, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the conditions of the lease under which such rights are held and also subject to all the provisions and conditions of this section to the same extent as though such successor or assignee were the original lessee hereunder.

Any lease granted under this section may be forfeited and canceled by appropriate proceedings in the United States district court for the district in which said property or some part thereof is situated whenever the lessee, after reasonable notice in writing, as prescribed in the lease, shall fail to comply with the terms of this section or with such conditions not inconsistent herewith as may be specifically recited in the lease.

For the privilege of mining or extracting the mineral deposits in the ground covered by the lease the lessee shall pay to the United States, for the benefit of the Indians, a royalty which shall not be less than 5 per centum of the net value of the output of the minerals at the mine, due and payable at the end of each month succeeding that of the extraction of the minerals from the mine, and an annual rental, payable at the date of such lease and annually thereafter on the area covered by such lease, at the rate of not less than 25 cents per acre for the first calendar year thereafter; not less than 50 cents per acre for the second, third, fourth, and fifth years, respectively; and not less than \$1 per acre for each and every year thereafter during the continuance of the lease, except that such rental for any year shall be credited against the royalties as they accrue for that year.

In addition to the payment of the royalties and rentals as herein provided the lessee shall expend annually not less than \$100 in development work for each mining claim located or leased in the same manner as an annual expenditure for labor or improvements is required to be made under the mining laws of the United States: Provided, That the lessee shall also agree to pay all damages occasioned by reason of his mining operations to the land or allotment of any Indian or to the crops or improvements thereon: And provided further, That no timber shall be cut upon the reservation by the lessee except for mining purposes and then only after first obtaining a permit from the superintendent of the reservation and upon payment of the fair value thereof.

The Secretary of the Interior is hereby authorized to examine the books and accounts of lessees, and to require them to submit statements, representations, or reports, including information as to cost of mining, all of which statements, representations, or reports so required shall be upon oath, unless otherwise specified, and in such form and upon such blanks as the Secretary of the Interior may require; and any person making any false statement, representation, or report under oath shall be subject to punishment as for perjury.

All moneys received from royalties and rentals under the provisions of this section shall be deposited in the Treasury of the United States to the credit of the Indians belonging and having tribal rights on the reservation where the leased land is located, which moneys shall be at all times subject to appropriation by Congress for their benefit, unless otherwise provided by treaty or agreement ratified by Congress: Provided, That such moneys shall be subject to the laws authorizing the pro rata distribution of Indian tribal funds.

The Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulations not inconsistent with this section as may be necessary and proper for the protection of the interests of the Indians and for the purpose of carrying the provisions of this section into full force and effect: Provided, That nothing in this section shall be construed or held to affect the right of the States or other local authority to exercise any rights which they may have to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee.

Mining locations, under the terms of this section, may be made on unallotted lands within Indian reservations by Indians who have heretofore or may hereafter be declared by the Secretary of the Interior to be competent to manage their own affairs; and the said Secretary is hereby authorized and empowered to lease such lands to such Indians in accordance with the provisions of this section: Provided, That the Secretary of the Interior be, and he is hereby, authorized to permit other Indians to make locations and obtain leases under the provisions of this section, under such rules and regulations as he may prescribe in regard to the working, developing, disposition, and selling of the products, and the disposition of the proceeds thereof of any such mine by such Indians. (Act June 30, 1919, c. 4, § 26.)

§ 3632a. Cost of ascertaining heirs.—Hereafter upon a determination of the heirs to any trust or restricted Indian property of the value of \$250 or more, or to any allotment, or, after approval by the Secretary of the Interior of any will covering such trust or restricted property, there shall be paid by such heirs, or by the beneficiaries under such will, or from the estate of the decedent, or from the proceeds of sale of the allotment, or from any trust funds belonging to the estate of the decedent, the sum of \$15 where the appraised value of the estate of the decedent does not exceed the sum of \$1,000. Where the appraised value of the estate of decedent is more than \$1,000 and less than \$3,000, \$20; where the appraised value of the estate of the decedent is \$3,000 but not more than \$5,000, the sum of \$25, and where the appraised value of the estate of the decedent is \$5,000 or over, the sum of \$50, which amount shall be accounted for and paid in the Treasury of the United States; and a report shall be made annually to Congress by the Secretary of the Interior on or before the first Monday in December of all moneys collected and deposited as herein provided: Provided further, That the provisions of this paragraph shall not apply to the Osage Indians nor to the Five Civilized Tribes of Oklahoma. (Act Feb. 14, 1920, c. 75, § 1.)

Note.—See § 3623.

§ 3632a. Fees for property transfers.—Hereafter in the sale of all Indian allotments, or in leases, or assignment of leases, covering tribal or allotted lands for mineral, farming, grazing, business or other purposes, or in the sale of timber thereon, the Secretary of the Interior be, and he is hereby, authorized and directed, under such regulations as he may prescribe, to charge a reasonable fee for the work incident to the sale, leasing, or assigning of such lands, or in the sale of the timber, or in the administration of Indian forests, to be paid by vendees, lessees, or assignees, or from the proceeds of sales, the amounts collected to be covered into the Treasury as miscellaneous receipts. (Act Feb. 14, 1920, c. 75, § 1.)

§ 3632b. Sale of abandoned and other property.—The Secretary of the Interior is hereby authorized to sell and convey at public sale, to the highest bidder, under such regulations and under such terms and conditions as he may prescribe, at not less than the appraised value thereof, any abandoned day or boarding school plant, or any abandoned agency buildings, situated on lands belonging to any Indian tribe and not longer needed for Indian or administrative purposes, and to sell therewith not to exceed one hundred and sixty acres of land on which such plant or buildings may stand. Title to all lands disposed of under the provisions of this Act shall pass to the purchaser by deed or by patent in fee, with such reservations or conditions as the Secretary may deem just and proper, no purchaser to acquire more than one hundred and sixty acres in any one tract: Provided,

That the proceeds of all such sales shall be deposited in the Treasury of the United States to the credit of the Indians to whom said lands belong, to be disposed of in accordance with existing law. (Act Feb. 14, 1920, c. 75, § 1.)

§ 3632c. Approval of undisputed land claims.—Hereafter no undisputed claims to be paid from individual moneys of restricted allottees, or their heirs, or uncontested agricultural and mineral leases (excluding oil and gas leases) made by individual restricted Indian allottees, or their heirs, shall be forwarded to the Secretary of the Interior for approval, but all such undisputed claims or uncontested leases (except oil and gas leases) heretofore required to be approved under existing law by the Secretary of the Interior shall hereafter be paid, approved, rejected, or disapproved by the Superintendent for the Five Civilized Tribes of Oklahoma: Provided, however, That any party aggrieved by any decision or order of the Superintendent for the Five Civilized Tribes of Oklahoma may appeal from the same to the Secretary of the Interior within thirty days from the date of said decision or order. (Act Feb. 14, 1920, c. 75, § 18.)

§ 3632d. Payment of tribal funds to Choctaw and Chickasaw Tribes in Oklahoma.—The Secretary of the Interior be, and he is hereby, authorized to pay to the enrolled members of the Choctaw and Chickasaw Tribes of Indians of Oklahoma entitled under existing law to share in the funds of said tribes, or to their lawful heirs, out of any moneys belonging to said tribes in the United States Treasury, or deposited in any bank or held by any official under the jurisdiction of the Secretary of the Interior, not to exceed \$100 per capita, said payment to be made under such rules and regulations as the Secretary of the Interior may prescribe: Provided, That in cases where such enrolled members, or their heirs, are Indians who by reason of their degree of Indian blood belong to the restricted class, the Secretary of the Interior may, in his discretion withhold such payments and use the same for the benefit of such restricted Indians: Provided further, That the money paid to the enrolled members or their heirs, as provided herein, shall be exempt from any lien for attorneys' fees or other debt contracted prior to the passage of this Act: Provided further, That the Secretary of the Interior is hereby authorized to use not to exceed \$8,000 out of the Choctaw and Chickasaw tribal funds for the expenses and the compensation of all necessary employees for the distribution of the said per capita payments: Provided further, That until further provided by Congress, the Secretary of the Interior, under rules and regulations to be prescribed by him, is authorized to make per capita payments of not to exceed \$200 annually hereafter to the enrolled members of the Choctaw and Chickasaw Tribes of Indians of Oklahoma, entitled under existing law to share in the funds of said tribes, or to their lawful heirs, of all the available money held by the Government of the United States for the benefit of said tribes in excess of that required for expenditures authorized by annual appropriations made therefrom or by existing law. (Act Feb. 14, 1920, c. 75, § 18.)

§ 3632e. Expenditure of funds belonging to Five Civilized Tribes.—Hereafter no money shall be expended from tribal funds belonging to the Five Civilized Tribes without specific appropriation by Congress, except as follows: Equalization of allotments, per capita and other payments authorized by law to individual members of the respective tribes, tribal and other Indian schools for the current fiscal year under existing law, salaries and contingent expenses of governors, chiefs, assistant chiefs, secretaries, interpreters, and mining trustees of the tribes for the current fiscal year at salaries at the rate heretofore paid, and one attorney each for the Choctaw, Chickasaw, and Creek Tribes employed under contract approved by the President, under existing law, for the current fiscal year. (Act Feb. 14, 1920, c. 75, § 18.)

§ 3645a. Use of lands for stock-watering purposes.—The Secretary of the Interior be, and he hereby is, authorized and directed to designate as valuable for stock-watering purposes such of the unallotted and unreserved lands of the Flathead Indian Reservation, which border on streams, as may be subject to settlement and disposal under sections nine and thirteen of

this Act. Lands so designated shall be disposed of under the terms of this Act, subject to the condition, which shall be expressed in all patents issued for lands so designated, that existing trails crossing said land shall be kept open to the extent necessary to provide access for live stock to streams adjacent to said lands. The Secretary of the Interior is authorized and directed to perform all acts necessary to the enforcement of this condition. (Acts April 23, 1904, c. 1495; § 26, 33 Stat. 302, as added by Act Feb. 28, 1919, c. 71.)

§ 3645b. Street paving and sewerage.—The Secretary of the Interior is hereby authorized to pay out of any funds of the Creek, Cherokee, Choctaw, Chickasaw, and Seminole Nations on deposit in the Treasury of the United States, the proportionate cost of street paving, construction of sidewalks and sewers abutting on unsold lots belonging to any of said tribes and as may be properly chargeable against said town lots, said payments to be made upon submission of proof to said Secretary of the Interior showing the entire cost of the said street paving, side walk, and sewer construction and that said improvement was duly authorized and undertaken in accordance with law: Provided, That the Secretary of the Interior shall be satisfied that the charges made are reasonable and that the lots belonging to the above-mentioned tribes against which the charges were made have been enhanced in value by said improvements to not less than the amount of said charges. (Act May 26, 1920, c. 204.)

TITLE XXXII.

IMMIGRATION AND NATURALIZATION.

CHAPTER 2.

REGULATION OF IMMIGRATION IN GENERAL.

§ 3700. Aliens excluded.—The following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons; persons who have had one or more attacks of insanity at any time previously; persons of constitutional psychopathic inferiority; persons with chronic alcoholism; paupers; professional beggars; vagrants; persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who practice polygamy or believe in or advocate the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials, or who advocate or teach the unlawful destruction of property; persons who are members of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, or who advocate or teach the unlawful destruction of property; prostitutes, or persons coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who directly or indirectly procure or attempt to procure or import prostitutes or persons for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by

offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country; persons likely to become a public charge; persons who have been deported under any of the provisions of this Act, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a foreign port or their attempt to be admitted from foreign contiguous territory the Secretary of Labor shall have consented to their reapplying for admission; persons whose tickets or passage is paid for with the money of another, or who are assisted by others to come, unless it is affirmatively and satisfactorily shown that such persons do not belong to one of the foregoing excluded classes; persons whose ticket or passage is paid for by any corporation, association, society, municipality, or foreign Government, either directly or indirectly; stowaways, except that any such stowaway, if otherwise admissible, may be admitted in the discretion of the Secretary of Labor; all children under sixteen years of age, unaccompanied by or not coming to one or both of their parents, except that any such children may, in the discretion of the Secretary of Labor, be admitted if in his opinion they are not likely to become a public charge and are otherwise eligible; unless otherwise provided for by existing treaties, persons who are natives of islands not possessed by the United States adjacent to the Continent of Asia, situate south of the twentieth parallel latitude north, west of the one hundred and sixtieth meridian of longitude east from Greenwich, and north of the tenth parallel of latitude south, or who are natives of any country, province, or dependency situate on the Continent of Asia west of the one hundred and tenth meridian of longitude east from Greenwich and east of the fiftieth meridian of longitude east from Greenwich and south of the fiftieth parallel of latitude north, except that portion of said territory situate between the fiftieth and the sixty-fourth meridians of longitude east from Greenwich and the twenty-fourth and thirty-eighth parallels of latitude north, and no alien now in any way excluded from, or prevented from entering, the United States, shall be admitted to the United States. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, civil engineers, teachers, students, authors, artists, merchants, and travelers for curiosity or pleasure, nor their legal wives or their children under sixteen years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section nineteen of this Act.

After three months from the passage of this Act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit:

All aliens over sixteen years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish: Provided, That any admissible alien, or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over fifty-five years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relative shall be permitted to enter. That for the purpose of ascertaining whether aliens can read the immigrant inspectors shall be furnished with slips of uniform size, prepared under the direction of the Secretary of Labor, each containing not less than thirty nor more than forty words in ordinary use, printed in plainly legible type in some one of the various languages or dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit: All aliens who shall prove to the satisfaction of the proper immigration officer or to

the Secretary of Labor that they are seeking admission to the United States to avoid religious persecution in the country of their last permanent residence, whether such persecution be evidenced by overt acts or by laws or governmental regulations that discriminate against the alien or the race to which he belongs because of his religious faith; all aliens who have been lawfully admitted to the United States and who have resided therein continuously for five years and who return to the United States within six months from the date of their departure therefrom; all aliens in transit through the United States; all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: Provided, That nothing in this Act shall exclude, if otherwise admissible, persons convicted, or who admit the commission, or who teach or advocate the commission, of an offense purely political: Provided further, That the provisions of this Act, relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign Government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: Provided further, That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Labor to be reached after a full hearing and an investigation into the facts of the case: Provided further, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, nurses, ministers of any religious denominations, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed as domestic servants: Provided further, That whenever the President shall be satisfied that passports issued by any foreign Government to its citizens or subjects to go to any country other than the United States, or to any insular possession of the United States, or to the Canal Zone, are being used for the purpose of enabling the holder to come to the continental territory of the United States to the detriment of labor conditions therein, the President shall refuse to permit such citizens or subjects of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possession or from the Canal Zone: Provided further, That aliens returning after a temporary absence to an unrelinquished United States domicile of seven consecutive years may be admitted in the discretion of the Secretary of Labor, and under such conditions as he may prescribe: Provided further, That nothing in the contract-labor or reading-test provisions of this Act shall be construed to prevent, hinder, or restrict any alien exhibitor, or holder of concession or privilege for any fair or exposition authorized by Act of Congress, from bringing into the United States, under contract, such otherwise admissible alien mechanics, artisans, agents, or other employees, natives of his country as may be necessary for installing or conducting his exhibit or for preparing for installing or conducting any business authorized or permitted under any concession or privilege which may have been or may be granted by any such fair or exposition in connection therewith, under such rules and regulations as the Commissioner General of Immigration, with the approval of the Secretary of Labor, may prescribe both as to the admission and return of such persons: Provided further, That the Commissioner General of Immigration with the approval of the Secretary of Labor shall issue rules and prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of otherwise inadmissible aliens applying for temporary admission: Provided further, That nothing in this Act shall be construed to apply to accredited officials of foreign Governments, nor to their suites, families, or guests: Provided further, That an alien who can not read may, if otherwise admissible, be admitted if, within five years after this Act becomes law, a citizen of the United States who has served in the military or naval forces of the United States during the war with the Imperial German Government, requests that such alien be admitted, and with the approval of the Secretary of Labor, marries such alien at a United States immigration station. (Acts Feb. 5, 1917, c. 29, § 3, 39 Stat. 875; June 5, 1920, c. 243.)

Note 1.—This section, by Res. June 29, 1918, No. 34, c. 112, 40 Stat., was specially modified as follows: "Notwithstanding the provisions of section three of the Immigration Act of February fifth, nineteen hundred and seventeen, excluding from the United States aliens who are likely to become a public charge, or who are physically defective, or who are contract laborers, or who have come in consequence of advertisements for labor printed, published, or distributed in a foreign country, or who are assisted by others to come, or whose ticket or passage is paid for with the money of another or by any corporation, association, society, municipality, or foreign government, or who are stowaways, or who are illiterate, aliens lawfully resident in the United States when heretofore or hereafter enlisted or conscripted for the military service of the United States; and aliens lawfully resident in the United States who prior to April sixth, nineteen hundred and seventeen, declared their intention to become citizens of the United States, and who have enlisted for service with the Czecho-Slovak, Polish, or other independent forces attached to the United States Army or to the army of any one of the cobelligerents of the United States in the present war, who may, within one year after the termination of the war, apply for readmission to this country, after being honorably discharged or granted furlough abroad by the proper military authorities, or after being rejected on final examination in connection with their enlistment or conscription, shall be readmitted; and that any alien of either of the two foregoing descriptions who would otherwise be excluded under said section of the Immigration Act on the ground that he is idiotic, imbecile, feeble-minded, epileptic, insane, or has had one or more attacks of insanity, or on the ground that he is afflicted with constitutional psychopathic inferiority, tuberculosis, a loathsome or dangerous contagious disease, or mental defect, shall be readmitted if it is proved that the disability was acquired while the alien was serving in the military forces of the United States or in an independent force of the kind hereinbefore described, if such alien returns to a port of the United States within one year after the termination of the war; and that the head tax provided in the Immigration Act of February fifth, nineteen hundred and seventeen, shall not be collected from aliens readmitted into the United States under the provisions of this resolution."

Note 2.—A subsequent Res. Oct. 19, 1918, No. 44, c. 190, provided: "Notwithstanding the provisions of section three of the Immigration Act of February fifth, nineteen hundred and seventeen, excluding from the United States aliens who are likely to become a public charge, or who are physically defective, or who are contract laborers, or who have come in consequence of advertisements for labor printed, published, or distributed in a foreign country, or who are assisted by others to come, or whose ticket or passage is paid for with the money of another or by any corporation, association, society, municipality, or foreign government, or who are stowaways, or who are illiterate, aliens lawfully resident in the United States when heretofore or hereafter enlisted or conscripted for the military or naval service of the United States, or of any one of the nations cobelligerent of the United States in the present war; and aliens lawfully resident in the United States who have enlisted for service with Czecho-Slovak, Polish, or other independent forces attached to the United States Army or to the army or navy of any one of the cobelligerents of the United States in the present war, who may during or within one year after the termination of the war apply for readmission to this country, after being honorably discharged or granted furlough abroad by the proper military or naval authorities, or after being rejected on final examination in connection with their enlistment or conscription shall, within two years after the termination of the war, be readmitted; and that any alien of either of the foregoing descriptions who would otherwise be excluded under said section of the Immigration Act on the ground that he is idiotic, imbecile, feeble-minded, epileptic, insane, or has had one or more attacks of insanity, or on the ground that he is afflicted with constitutional psychopathic inferiority, tuberculosis, a loathsome or dangerous contagious disease, or mental defect, shall be readmitted if it is proved that the disability was acquired while the alien was serving in the military or naval forces of the United States or of any one of the nations cobelligerent of the United States in the present war or in an independent force of the kind hereinbefore described, if such alien returns to a port of the United States within two years after the termination of the war; and that the head tax provided in the Immigration Act of February fifth, nineteen hundred and seventeen, shall not be collected from aliens readmitted into the United States under the provisions of this resolution."

§ 3700a. Exclusion under execution proclamation.—If the President shall find that the public safety requires that restrictions and prohibitions in addition to those provided otherwise than by this Act be imposed upon the entry of aliens into the United States, and shall make public proclamation thereof, it shall, until otherwise ordered by the President or Congress, be unlawful—

(a) For any alien to enter or attempt to enter the United States except under such reasonable rules, regulations, and orders, and subject to such passport, visé, or other limitations and exceptions as the President shall prescribe;

(b) For any person to transport or attempt to transport into the United States another person with knowledge or reasonable cause to believe that the entry of such other person is forbidden by this Act;

(c) For any person knowingly to make any false statement in an application for a passport or other permission to enter the United States with intent to induce or secure the granting of such permission, either for himself or for another;

(d) For any person knowingly to furnish or attempt to furnish or assist in furnishing to another a viséed passport or other permit or evidence of permission to enter, not issued and designed for such other person's use;

(e) For any person knowingly to use or attempt to use any viséed passport or other permit or evidence of permission to enter not issued and designed for his use;

(f) For any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any passport, visé or other permit or evidence of permission to enter the United States;

(g) For any person knowingly to use or attempt to use or furnish to another for use any false, forged, counterfeited, mutilated, or altered passport, permit, or evidence of permission, or any passport, permit, or evidence of permission which, though originally valid, has become or been made void or invalid.

Any person who shall willfully violate any of the provisions of this Act, or of any order or proclamation of the President promulgated, or of any permit, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than \$5,000, or, if a natural person, imprisoned for not more than five years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by like fine or imprisonment, or both; and any vehicle or any vessel, together with its or her appurtenances, equipment, tackle, apparel, and furniture, concerned in any such violation, shall be forfeited to the United States.

The term "United States" as used in this Act includes the Canal Zone and all territory and waters, continental or insular, subject to the jurisdiction of the United States.

The word "person" as used herein shall be deemed to mean any individual, partnership, association, company, or other unincorporated body of individuals, or corporation, or body politic.

In order to carry out the purposes and provisions of this Act the sum of \$600,000 is hereby appropriated.

This Act shall take effect upon the date when the provisions of the Act of Congress approved the 22d day of May, 1918, entitled "An Act to prevent in time of war departure from and entry into the United States, contrary to the public safety," shall cease to be operative, and shall continue in force and effect until and including the 4th day of March, 1921. (Act Nov. 10, 1919, c. 104, §§ 1-5.)

§ 3700b. Exclusion of anarchists and similar classes.—The following aliens shall be excluded from admission into the United States:

(a) Aliens who are anarchists;

(b) Aliens who advise, advocate, or teach, or who are members of or affiliated with any organization, association, society, or group, that advises, advocates, or teaches, opposition to all organized government;

(c) Aliens who believe in, advise, advocate, or teach, or who are members of or affiliated with any organization, association, society, or group, that believes in, advises, advocates, or teaches: (1) the overthrow by force or violence of the Government of the United States or of all forms of law, or (2) the duty, necessity or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character, or (3) the unlawful damage, injury or destruction of property, or (4) sabotage;

(d) Aliens who write, publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, distribution, publication, or display, any written or printed matter, advising, advocating, or teaching, opposition to all organized government, or advising, advocating or teaching: (1) the overthrow by force or violence of the Government of the United States or of all forms of law, or (2) the duty, necessity or

propriety of the unlawful assaulting or killing of any officer or officers (either specific individuals or of officers generally) of the Government of the United States or of any other organized government, or (3) the unlawful damage, injury or destruction of property, or (4) sabotage;

(e) Aliens who are members of or affiliated with any organization, association, society, or group, that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subdivision (d).

Any alien who, at any time after entering the United States, is found to have been at the time of entry, or to have become thereafter, a member of any one of the classes of aliens enumerated in section one of this Act, shall, upon the warrant of the Secretary of Labor, be taken into custody and deported in the manner provided in the immigration Act of February fifth, nineteen hundred and seventeen. The provisions of this section shall be applicable to the classes of aliens mentioned in this Act irrespective of the time of their entry into the United States.

Any alien who shall, after he has been excluded and deported or arrested and deported in pursuance of the provisions of this Act, thereafter return to or enter the United States or attempt to return to or enter the United States shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment for a term of not more than five years; and shall, upon the termination of such imprisonment, be taken into custody, upon the warrant of the Secretary of Labor, and deported in the manner provided in the immigration Act of February fifth, nineteen hundred and seventeen. (Acts Oct. 16, 1918, c. 186, §§ 1-3, 40 Stat.; June 5, 1920, c. 251.)

§ 3720a. Deportation of additional classes of aliens; readmission.—Aliens of the following classes, in addition to those for whose expulsion from the United States provision is made in the existing law, shall, upon the warrant of the Secretary of Labor, be taken into his custody and deported in the manner provided in sections 19 and 20 of the Act of February 5, 1917, entitled "An Act to regulate the immigration of aliens to, and the residence of aliens in, the United States," if the Secretary of Labor, after hearing, finds that such aliens are undesirable residents of the United States, to wit:

(1) All aliens who are now interned under section 4067 of the Revised Statutes of the United States and the proclamations issued by the President in pursuance of said section under date of April 6, 1917, November 16, 1917, December 11, 1917, and April 19, 1918, respectively.

(2) All aliens who since August 1, 1914, have been or may hereafter be convicted of any violation or conspiracy to violate any of the following Acts or parts of Acts, the judgment on such conviction having become final, namely:

(a) An Act entitled "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes," approved June 15, 1917, or the amendment thereof approved May 16, 1918;

(b) An Act entitled "An Act to prohibit the manufacture, distribution, storage, use, and possession in time of war of explosives, providing regulations for the safe manufacture, distribution, storage, use, and possession of the same, and for other purposes," approved October 6, 1917;

(c) An Act entitled "An Act to prevent in time of war departure from and entry into the United States contrary to the public safety," approved May 22, 1918;

(d) An Act entitled "An Act to punish the willful injury or destruction of war material or of war premises or utilities used in connection with war material, and for other purposes," approved April 20, 1918;

(e) An Act entitled "An Act to authorize the President to increase temporarily the Military Establishment of the United States," approved May 18, 1917, or any amendment thereof or supplement thereto;

(f) An Act entitled "An Act to punish persons who make threats against the President of the United States," approved February 14, 1917;

(g) An Act entitled "An Act to define, regulate, and punish trading with the enemy, and for other purposes," approved October 6, 1917, or any amendment thereof;

(h) Section 6 of the Penal Code of the United States.

(3) All aliens who have been or may hereafter be convicted of any offense against section 13 of the said Penal Code committed during the period of August 1, 1914, to April 6, 1917, or of a conspiracy occurring within said period to commit an offense under said section 13, or of any offense committed during said period against the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, in aid of a belligerent in the European war.

In every case in which any such alien is ordered expelled or excluded from the United States under the provisions of this Act the decision of the Secretary of Labor shall be final.

In addition to the aliens who are by law now excluded from admission into the United States all persons who shall be expelled under any of the provisions of this Act shall also be excluded from readmission. (Act May 10, 1920, c. 174, §§ 1-3.)

TITLE XXXIII.

THE CENSUS.

§ 3775. **When census taken; scope.**—A census of the population, agriculture, manufactures, forestry and forest products, and mines and quarries of the United States shall be taken by the Director of the Census in the year nineteen hundred and twenty and every ten years thereafter. The census herein provided for shall include each State, the District of Columbia, Alaska, Hawaii, and Porto Rico. A census of Guam and Samoa shall be taken in the same year by the respective governors of said islands and a census of the Panama Canal Zone by the governor of the Canal Zone in accordance with plans prescribed or approved by the Director of the Census. (Acts July 2, 1909, c. 2, § 1, 36 Stat. 1; March 3, 1919, c. 97, § 1.)

§ 3776. **Decennial period.**—The period of three years beginning the first day of July next preceding the census provided for in section one of this Act shall be known as the decennial census period, and the reports upon the inquiries provided for in said section shall be completed and published within such period. (Acts July 2, 1909, c. 2, § 2, 36 Stat. 2; March 3, 1919, c. 97, § 2.)

§ 3776a. **Bureau of Census.**—For salaries and necessary expenses for preparing for, taking, compiling, and publishing the Fourteenth Census of the United States; for rent of office quarters outside the District of Columbia, alterations and repairs to buildings, construction of fireproof vaults, and for carrying on during the decennial census period all other work authorized and directed by law, including purchase, construction, and repair of card-punching, card-sorting, and card-tabulating machinery; experimental work in developing, improving, and constructing an integrating counter for use in statistical work; repairs to such machinery and other mechanical appliances; technical and mechanical services in connection therewith, and purchase, rental, construction, repair, and exchange of equipment and mechanical appliances; and including personal services in the District of Columbia and in the field, \$15,000,000, to continue available until June 30, 1922: Provided, That the Secretary of Commerce is authorized, in his discretion, to suspend during the decennial census period such work of the Census Office, other than the Fourteenth Census, as he may deem advisable. (Act March 1, 1919, c. 86, § 1.)

§ 3777. **Scope of Fourteenth Census; schedules; special agents and detailed employees.**—The Fourteenth Census shall be restricted to inquiries relating to population, to agriculture, to manufactures, to forestry and forest products, and to mines and quarries. The schedules relating to population shall include for each inhabitant the name, place of abode, relationship to head of family, color, sex, age, conjugal condition, place of birth, place of birth of parents, nationality or mother tongue of all persons born

in foreign countries, nationality or mother tongue of parents of foreign birth, number of years in the United States, citizenship, occupation, whether or not employer or employee, whether or not engaged in agriculture, school attendance, literacy, tenure of home and the encumbrance thereon, and the name and address of each blind or deaf and dumb person.

The schedules relating to agriculture shall include name, color, sex, and country of birth of occupant of each farm, tenure, acreage of farm, acreage of woodland, value of farm and improvements, and the encumbrance thereon, value of farm implements, number of live stock on farms, ranges, and elsewhere, and the acreage of crops and the quantities of crops and other farm products for the year ending December thirty-first next preceding the enumeration. Inquiries shall be made as to the quantity of land reclaimed by irrigation and drainage and the crops produced; also as to the location and character of irrigation and drainage enterprises, and the capital invested in such enterprises.

The schedules of inquiries relating to manufactures, to forestry and forest products, and to mines and quarries shall include the name and location of each establishment; character of organization, whether individual, corporate, or other form; character of business or kind of goods manufactured; amount of capital actually invested; number of proprietors, firm members, copartners and officers, and the amount of their salaries; number of employees and the amount of their wages; quantity and cost of materials used in manufactures; principal miscellaneous expenses; quantity and value of products; time in operation during the year; character and quantity of power used; and character and number of machines employed.

The census of manufactures, of forestry and forest products, and of mines and quarries shall relate to the year ending December thirty-first, next preceding the enumeration of population, and shall be confined to manufacturing establishments and mines and quarries which were in active operation during all or a portion of that year. The census of manufactures shall furthermore be confined to manufacturing establishments conducted under what is known as the factory system, exclusive of the so-called neighborhood, household, and hand industries.

Whenever he shall deem it expedient, the Director of the Census may charge the collection of these statistics upon special agents or upon detailed employees, to be employed without respect to locality.

The number, form, and subdivision of inquiries provided for in section eight shall be determined by the Director of the Census. (Acts July 2, 1909, c. 2, § 8, 36 Stat. 3; Feb. 25, 1910, c. 63, 36 Stat. 227; Res. March 24, 1910, No. 17, 36 Stat. 877; Act March 3, 1919, c. 97, § 8.)

Note.—§ 8 is now § 3777.

§ 3781. Appointment of supervisors; districts.—The Director of the Census shall, at least six months prior to the date fixed for commencing the enumeration at the fourteenth and each succeeding decennial census, designate the number, whether one or more, of supervisors of census for each State, the District of Columbia, Alaska, Hawaii, and Porto Rico, and shall define the districts within which they are to act; except that the Director of the Census, in his discretion, need not designate supervisors for Alaska, Hawaii, and Porto Rico, but in lieu thereof may employ special agents as hereinafter provided. The supervisors shall be appointed by the Secretary of Commerce upon the recommendation of the Director of the Census: Provided, That the whole number of supervisors shall not exceed four hundred: Provided further, That so far as practicable and desirable the boundaries of the supervisors' districts shall conform to the boundaries of the congressional districts: And provided further, That if in any supervisor's district the supervisor has not been appointed and qualified ninety days preceding the date fixed for the commencement of the enumeration, or if any vacancy shall occur thereafter, either through death, removal, or resignation of a supervisor, or from any other cause, the Director of the Census may appoint a temporary supervisor or detail an employee of the Census Office to act as supervisor for that district. (Acts July 2, 1909, c. 2, § 9, 36 Stat. 4; March 3, 1919, c. 97, § 9.)

§ 3782. Duties of supervisors.—Each supervisor of census shall be charged with the performance within his own district of the following duties: To consult with the Director of Census in regard to the division of his district into subdivisions most convenient for the purpose of the enumeration, which subdivisions or enumeration districts shall be defined and the boundaries thereof fixed by the Director of the Census; to designate to the director suitable persons and with his consent to employ such persons as enumerators, one or more for each subdivision; to communicate to enumerators the necessary instructions and directions relating to their duties; to examine and scrutinize the returns of the enumerators, and in the event of discrepancies or deficiencies appearing in any of the said returns, to use all diligence in causing the same to be corrected or supplied; to forward the completed returns of the enumerators to the director at such time and in such manner as shall be prescribed, and to make up and forward to the director the accounts of each enumerator in his district for service rendered, which accounts shall be duly certified to by the enumerator, and the same shall be certified as true and correct if so found by the supervisor, and said accounts so certified shall be accepted and paid by the director. The duties imposed upon the supervisor by this Act shall be performed in any and all particulars in accordance with the orders and instructions of the Director of the Census. (Acts July 2, 1909, c. 2, § 10, 36 Stat. 5; March 3, 1919, c. 97, § 10.)

§ 3783. Compensation of supervisors.—Each supervisor of the census shall, upon the completion of his duties to the satisfaction of the Director of the Census, receive the sum of \$1,500, and in addition thereto \$1 for each thousand or major fraction of a thousand of population enumerated in his district, such sums to be in full compensation for all services rendered and expenses incurred by him: Provided, That of the above-named compensation a sum not to exceed \$600, in the discretion of the Director of the Census, may be paid to any supervisor prior to the completion of his duties in one or more payments, as the Director of the Census may determine: Provided further, That in emergencies arising in connection with the work of preparation for or during the progress of the enumeration in his district, or in connection with the reenumeration of any subdivision, a supervisor may, in the discretion of the Director of the Census, be allowed actual and necessary traveling expenses and an allowance in lieu of subsistence not exceeding \$4 per day during his necessary absence from his usual place of residence: And provided further, That an appropriate allowance to supervisors for clerk hire may be made when deemed necessary by the Director of the Census. (Acts July 2, 1909, c. 2, § 11, 36 Stat. 5; March 3, 1919, c. 97, § 11.)

§ 3784. Enumerators.—Each enumerator shall be charged with the collection in his subdivision of the facts and statistics required by the population and agricultural schedules and such other schedules as the Director of the Census may determine shall be used by him in connection with the census, as provided in section eight of this Act. It shall be the duty of each enumerator to visit personally each dwelling house in his subdivision, and each family therein, and each individual living out of a family in any place of abode, and by inquiry made of the head of each family, or of the member thereof deemed most competent and trustworthy, or of such individual living out of a family, to obtain each and every item of information and all particulars required by this Act, as of date January first of the year in which the enumeration shall be made; and in case no person shall be found at the usual place of abode of such family, or individual living out of a family, competent to answer the inquiries made in compliance with the requirements of this Act, then it shall be lawful for the enumerator to obtain the required information as nearly as may be practicable from the family or families or person or persons living nearest to such place of abode who may be competent to answer such inquiries. It shall be the duty also of each enumerator to forward the original schedules, properly filled out and duly certified, to the supervisor of his district as his returns under the provisions of this Act; and in the event of discrepancies or deficiencies being discovered in these schedules he shall use all diligence in correcting or supplying the same. In case

an enumeration district embraces all or any part of any incorporated borough, village, town, or city, and also other territory not included within the limits of such incorporated borough, village, town, or city, it shall be the duty of the enumerator to clearly and plainly distinguish and separate, upon the population schedules, the inhabitants of such borough, village, town, or city from the inhabitants of the territory not included therein. No enumerator shall be deemed qualified to enter upon his duties until he has received from the supervisor of the district to which he belongs a commission, signed by the supervisor, authorizing him to perform the duties of enumerator, and setting forth the boundaries of the subdivision within which such duties are to be performed. (Acts July 2, 1909, c. 2, § 12, 36 Stat. 5; March 3, 1919, c. 97, § 12.)

Note.—§ 8 is now § 3777.

§ 3785. Enumeration districts.—The territory assigned to each supervisor shall be divided into as many enumeration districts as may be necessary to carry out the purposes of this Act, and, in the discretion of the Director of the Census, two or more enumeration districts may be given to one enumerator, and the boundaries of all the enumeration districts shall be clearly described by civil divisions, rivers, roads, public surveys, or other easily distinguishable lines: Provided, That enumerators may be assigned for the special enumeration of institutions, when desirable, without reference to the number of inmates. (Acts July 2, 1909, c. 2, § 13, 36 Stat. 6; March 3, 1919, c. 97, § 13.)

§ 3786. Removal of enumerators; amendment of enumeration.—Any supervisor of census may, with the approval of the Director of the Census, remove any enumerator in his district and fill the vacancy thus caused or otherwise occurring. Whenever it shall appear that any portion of the census provided for in this Act has been negligently or improperly taken, and is by reason thereof incomplete or erroneous, the Director of the Census may cause such incomplete and unsatisfactory enumeration and census to be amended or made anew. (Acts July 2, 1909, c. 2, § 14, 36 Stat. 6; March 3, 1919, c. 97, § 14.)

§ 3787. Interpreters.—The Director of the Census may authorize and direct supervisors of census to employ interpreters to assist the enumerators of their respective districts in the enumeration of persons not speaking the English language, but no authorizations shall be given for such employment in any district until due and proper effort has been made to employ an enumerator who can speak the language or languages for which the services of an interpreter would otherwise be required. It shall be the duty of such interpreters to accompany the enumerators and faithfully translate the latter's inquiries and the replies thereto, but in no case shall any such interpreter perform the duties of the enumerator unless commissioned as such by the Director of the Census. The compensation of such interpreters shall be fixed by the Director of the Census in advance, and shall not exceed \$5 per day for each day actually and necessarily employed. (Acts July 2, 1909, c. 2, § 15, 36 Stat. 6; March 3, 1919, c. 97, § 15.)

§ 3788. Compensation and expenses of enumerators.—The compensation of enumerators shall be determined by the Director of the Census as follows: In subdivisions where he shall deem such remuneration sufficient, an allowance of not less than 2 nor more than 4 cents for each inhabitant; not less than 20 nor more than 30 cents for each establishment of productive industry reported; not less than 20 nor more than 30 cents for each farm reported; not less than 20 nor more than 50 cents for each irrigation or drainage enterprise reported; and 10 cents for each barn and inclosure containing live stock not on farms. In other subdivisions the Director of the Census may fix a mixed rate of not less than \$1 nor more than \$2 per day and, in addition, an allowance of not less than 1 nor more than 3 cents for each inhabitant enumerated, and not less than 15 nor more than 20 cents for each farm and each establishment of productive industry reported. In other subdivisions per diem rates shall be fixed by the director according to the difficulty of enumeration, having special reference to the regions to be canvassed and the sparsity of settlement or other consideration pertinent thereto. The compensation allowed to an enumerator

in any such district shall not be less than \$3 nor more than \$6 per day of eight hours' actual field work, and no payment shall be made for time in excess of eight hours for any one day. The subdivisions or enumeration districts to which the several rates of compensation shall apply shall be designated by the Director of the Census at least two weeks in advance of the enumeration. No claim for mileage or traveling expenses shall be allowed any enumerator in either class of subdivisions, except in extreme cases, and then only when authority has been previously granted by the Director of the Census; and the decision of the director as to the amount due any enumerator shall be final: Provided, That within the limits of continental United States each supervisor to be appointed or selected under this Act shall be an actual resident of the district, and each enumerator to be appointed or selected under this Act shall, so far as practicable, be an actual resident of the subdivision within which his duties are to be performed; but an enumerator may be appointed if he be an actual resident of the city, township, or other civil division of which the subdivision in which his duties are to be performed is a part. (Acts July 2, 1909, c. 2, § 16, 36 Stat. 6; March 3, 1919, c. 97, § 16.)

§ 3789. Death of supervisor or enumerator.—In the event of the death of any supervisor or enumerator after his appointment and entrance on his duties, the Director of the Census is authorized to pay to the widow or legal representative of such supervisor or enumerator such sum as he may deem just and fair for the services rendered by such supervisor or enumerator. (Acts July 2, 1909, c. 2, § 17, 36 Stat. 7; March 3, 1919, c. 97, § 17.)

§ 3790. Special agents.—Special agents may be appointed by the Director of the Census to carry out the provisions of this Act and of the Act to provide for a permanent Census Office, approved March sixth, nineteen hundred and two, and Acts amendatory thereof or supplemental thereto; and such special agents shall perform such duties in connection with the enforcement of said Acts as may be required of them by the Director of the Census. The special agents thus appointed shall receive compensation at rates to be fixed by the Director of the Census, such compensation, however, not to exceed \$6 per diem except as hereinafter provided: Provided, That during the decennial census period the Director of the Census may fix the compensation of not to exceed twenty-five special agents, who shall be persons of known and tried experience in statistical work, at an amount not to exceed \$10 per diem: Provided further, That the Director of the Census may, in his discretion, fix the compensation of special agents on a piece-price basis without limitation as to the amount earned per diem: And provided further, That the special agents appointed under this section shall be entitled to necessary traveling expenses and an allowance in lieu of subsistence not to exceed \$4 per diem during necessary absence from their usual places of residence; but no pay or allowance in lieu of subsistence shall be allowed special agents when employed in the Census Office on other than special work committed to them, and no appointments of special agents shall be made for clerical work: And provided further, That the Director of the Census shall have power, and is hereby authorized, to appoint special agents to assist the supervisors whenever he may deem it proper, in connection with the work of preparation for, or during the progress of, the enumeration or in connection with the reenumeration of any district or a part thereof; or he may, in his discretion, employ for this purpose any of the permanent or temporary employees of the Census Office; and the special agents and employees of the Census Office so appointed or employed shall perform such duties in connection with the enforcement of this Act as may be required of them by the Director of the Census or by the supervisors of the districts to which they are assigned, and when engaged in the work of enumeration or reenumeration shall have like authority with and perform the same duties as the enumerators in respect to the subjects committed to them under this Act. (Acts March 3, 1899, c. 419, § 17, 30 Stat. 1010; March 6, 1902, c. 139, § 10, 32 Stat. 53; July 2, 1909, c. 2, § 18, 36 Stat. 7; Res. Feb. 5, 1910, No. 9, 36 Stat. 874; March 3, 1919, c. 97, § 18.)

§ 3791. Oath and fitness of officers and employees.—Every supervisor, supervisor's clerk, enumerator, interpreter, special agent, or other employee shall take and subscribe to an oath or affirmation, to be prescribed by the Director of the Census. All appointees and employees provided for in this Act shall be appointed or employed and examined, if examination is required by this Act, solely with reference to their fitness to perform the duties required of them by the provisions of this Act and without reference to their political party affiliations. (Acts July 2, 1909, c. 2, § 19, 36 Stat. 7; March 3, 1919, c. 97, § 19.)

§ 3792. Time for enumeration.—That the enumeration of the population required by section one of this Act shall be taken as of the first day of January, and it shall be the duty of each enumerator to commence the enumeration of his district on the day following, unless the Director of the Census in his discretion shall defer the enumeration in said district by reason of climatic or other conditions which would materially interfere with the proper conduct of the work; but in any event it shall be the duty of each enumerator to prepare the returns hereinbefore required to be made and to forward the same to the supervisor of his district within thirty days from the commencement of the enumeration of his district: Provided, That in any city having two thousand five hundred inhabitants or more under the preceding census the enumeration of the population shall be completed within two weeks from the commencement thereof. (Acts July 2, 1909, c. 2, § 20, 36 Stat. 7; March 3, 1919, c. 97, § 20.)

Note.—§ 1 is now § 3775.

§ 3793. Compensation for appointment of employee; sharing pay of another.—If any person shall receive or secure to himself any fee, reward, or compensation as a consideration for the appointment or employment of any person as supervisor, enumerator, or clerk, or other employee, or shall in any way receive or secure to himself any part of the compensation paid to any supervisor, enumerator, clerk, or other employee, he shall be deemed guilty of a felony, and upon conviction thereof shall be fined not more than \$3,000 and be imprisoned not more than five years. (Acts July 2, 1909, c. 2, § 21, 36 Stat. 8; March 3, 1919, c. 97, § 21.)

§ 3794. Offenses of officers and employees.—Any supervisor, supervisor's clerk, enumerator, interpreter, special agent, or other employee who, having taken and subscribed the oath of office required by this Act, shall, without justifiable cause, neglect or refuse to perform the duties enjoined on him by this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding \$500; or if he shall, without the authority of the Director of the Census, publish or communicate any information coming into his possession by reason of his employment under the provisions of this Act, or the Act to provide for a permanent Census Office or Acts amendatory thereof or supplemental thereto, he shall be guilty of a felony and shall upon conviction thereof be fined not to exceed \$1,000 or be imprisoned not to exceed two years, or both so fined and imprisoned in the discretion of the court; or if he shall willfully and knowingly swear or affirm falsely as to the truth of any statement required to be made or subscribed by him under oath by or under authority of this Act or of the Act to provide for a permanent Census Office or Acts amendatory thereof or supplemental thereto, he shall be deemed guilty of perjury, and upon conviction thereof shall be fined not exceeding \$2,000 or imprisoned not exceeding five years, or both; or if he shall willfully and knowingly make a false certificate or a fictitious return he shall be guilty of a felony, and upon conviction of either of the last-named offenses he shall be fined not exceeding \$2,000 or be imprisoned not exceeding five years, or both; or if any person who is or has been an enumerator shall knowingly or willfully furnish or cause to be furnished, directly or indirectly, to the Director of the Census or to any supervisor of the census any false statement or false information with reference to any inquiry for which he was authorized and required to collect information he shall be guilty of a felony, and upon conviction thereof shall be fined not exceeding \$2,000 or be imprisoned not exceeding five years, or both. (Acts July 2, 1909, c. 2, § 22, 36 Stat. 8; March 3, 1919, c. 97, § 22.)

§ 3795. Answers to inquiries.—It shall be the duty of all persons over eighteen years of age when requested by the Director of the Census, or by any supervisor, enumerator, or special agent, or other employee of the Census Office, acting under the instruction of the said director, to answer correctly, to the best of their knowledge, all questions on the census schedules applying to themselves and to the families to which they belong or are related, and to the farm or farms of which they or their families are the occupants; and any person over eighteen years of age who, under the conditions hereinbefore stated, shall refuse or willfully neglect to answer any of these questions, or shall willfully give answers that are false, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding \$100.

And it is hereby made unlawful for any individual, committee, or other organization of any kind whatsoever, to offer or render to any supervisor, supervisor's clerk, enumerator, interpreter, special agent, or other officer or employee of the Census Office engaged in making an enumeration of population, either directly or indirectly, any suggestion, advice, or assistance of any kind, with the intent or purpose of causing an inaccurate enumeration of population to be made, either as to the number of persons resident in any district or community, or in any other respect; and any individual, or any officer or member of any committee or other organization of any kind whatsoever, who directly or indirectly offers or renders any such suggestion, advice, information, or assistance, with such unlawful intent or purpose, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding \$5,000.

And it shall be the duty of every owner, proprietor, manager, superintendent, or agent of a hotel, apartment house, boarding or lodging house, tenement, or other building, when requested by the Director of the Census, or by any supervisor, enumerator, special agent, or other employee of the Census Office, acting under the instructions of the said director, to furnish the names of the occupants of said hotel, apartment house, boarding or lodging house, tenement, or other building, and to give thereto free ingress and egress to any duly accredited representative of the Census Office, so as to permit of the collection of statistics for census purposes, including the proper and correct enumeration of all persons having their usual place of abode in said hotel, apartment house, boarding or lodging house, tenement, or other building; and any owner, proprietor, manager, superintendent, or agent of a hotel, apartment house, boarding or lodging house, tenement, or other building who shall refuse or willfully neglect to give such information or assistance under the conditions hereinbefore stated shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding \$500. (Acts July 2, 1909, c. 2, § 23, 36 Stat. 8; March 3, 1919, c. 97, § 23.)

§ 3796. Same; industrial and other establishments.—It shall be the duty of every owner, official, agent, person in charge, or assistant to the person in charge, of any company, business, institution, establishment, religious body, or organization of any nature whatsoever, to answer completely and correctly to the best of his knowledge all questions relating to his respective company, business, institution, establishment, religious body, or other organization, or to records or statistics in his official custody, contained on any census schedule prepared by the Director of the Census under the authority of this Act, or of the Act to provide for a permanent Census Office, approved March sixth, nineteen hundred and two, or of Acts amendatory thereof or supplemental thereto; and any person violating the provisions of this section by refusing or willfully neglecting to answer any of said questions, or by willfully giving answers that are false, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding \$10,000, or imprisoned for a period not exceeding one year, or both so fined and imprisoned. (Acts July 2, 1909, c. 2, § 24, 36 Stat. 9; March 3, 1919, c. 97, § 24.)

§ 3797. Use of statistics so secured; disclosures.—The information furnished under the provisions of the next preceding section shall be used only for the statistical purposes for which it is supplied. No publication shall be made by the Census Office whereby the data furnished by any particular

establishment can be identified, nor shall the Director of the Census permit any one other than the sworn employees of the Census Office to examine the individual reports. (Acts July 2, 1909, c. 2, § 25, 36 Stat. 9; March 3, 1919, c. 97, § 25.)

§ 3798. Collection of fines.—All fines and penalties imposed by this Act may be enforced by indictment or information in any court of competent jurisdiction. (Acts July 2, 1909, c. 2, § 26, 36 Stat. 9; March 3, 1919, c. 97, § 26.)

§ 3799. Supervision of expenditures.—The Director of the Census may authorize the expenditure of necessary sums for the actual and necessary traveling expenses of the officers and employees of the Census Office, including an allowance in lieu of subsistence not exceeding \$4 per day during their necessary absence from the Census Office, or, instead of such an allowance, their actual subsistence expenses, not to exceed \$5 per day; and he may authorize the incidental, miscellaneous, and contingent expenses necessary for the carrying out of this Act, as herein provided, and not otherwise, including advertising in newspapers, the purchase of manuscripts, books of reference, and periodicals, the rental of sufficient quarters in the District of Columbia and elsewhere and the furnishing thereof, and expenditures necessary for compiling, printing, publishing, and distributing the results of the census, the purchase of necessary paper and other supplies, the purchase, rental, exchange, construction, and repair of mechanical appliances, the compensation of such permanent and temporary clerks as may be employed under the provisions of this Act and the Act establishing the permanent Census Office and Acts amendatory thereof or supplemental thereto, and all other expenses incurred under authority conveyed in this Act. (Acts July 2, 1909, c. 2, § 27, 36 Stat. 9; March 3, 1919, c. 97, § 27.)

§ 3800. Printing; publications and reports.—The Director of the Census is hereby authorized to make requisition upon the Public Printer for such printing as may be necessary to carry out the provisions of this Act, to wit: Blanks, schedules, circulars, pamphlets, envelopes, work sheets, and other items of miscellaneous printing; that he is further authorized to have printed, by the Public Printer, in such editions as the director may deem necessary, preliminary and other census bulletins, and final reports of the results of the several investigations authorized by this Act or by the Act to establish a permanent Census Office and Acts amendatory thereof or supplemental thereto, and to publish and distribute said bulletins and reports. (Acts July 2, 1909, c. 2, § 28, 36 Stat. 10; March 3, 1919, c. 97, § 28.)

§ 3801. Call on departments for information.—The Secretary of Commerce, whenever he may deem it advisable, on request of the Director of the Census, is hereby authorized to call upon any other department or office of the Government for information pertinent to the work herein provided for. (Acts July 2, 1909, c. 2, § 30, 36 Stat. 10; March 3, 1919, c. 97, § 30.)

§ 3801a. Census of agriculture and live stock.—There shall be in the year nineteen hundred and twenty-five, and once every ten years thereafter, a census of agriculture and live stock, which shall show the acreage of farm land, the acreage of the principal crops, and the number and value of domestic animals on the farms and ranges of the country. The schedule employed in this census shall be prepared by the Director of the Census. Such census shall be taken as of the first day of January and shall relate to the preceding calendar year. The Director of the Census may appoint enumerators or special agents for the purpose of this census in accordance with the provisions of the permanent census Act. (Act March 3, 1919, c. 97, § 31.)

§ 3801b. Publication of statistics of products of manufacturing industries.—The Director of the Census be, and he is hereby, authorized and directed to collect and publish, for the years nineteen hundred and twenty-one, nineteen hundred and twenty-three, nineteen hundred and twenty-five, and nineteen hundred and twenty-seven, and for every tenth year after each of said years, statistics of the products of manufacturing industries; and the director is hereby authorized to prepare such schedules as in his judgment may be necessary. (Act March 3, 1919, c. 97, § 32.)

§ 3802. Certified copies for governors and courts; data for individuals.—The Director of the Census be, and he is hereby, authorized, at his discretion, upon the written request of the governor of any State or Territory or of a court of record, to furnish such governor or court of record with certified copies of so much of the population or agricultural returns as may be requested, upon the payment of the actual cost of making such copies and \$1 additional for certification; and that the Director of the Census is further authorized, in his discretion, to furnish to individuals such data from the population schedules as may be desired for genealogical or other proper purposes, upon payment of the actual cost of searching the records and \$1 for supplying a certificate; and that the Director of the Census is authorized to furnish transcripts of tables and other records and to prepare special statistical compilations for State or local officials, private concerns, or individuals upon the payment of the actual cost of such work: Provided, however, That in no case shall information furnished under the authority of this Act be used to the detriment of the person or persons to whom such information relates. All moneys hereafter received by the Bureau of the Census in payment for labor and materials used in furnishing transcripts of census records or special statistical compilations from such records shall be deposited to the credit of the appropriation for collecting statistics. (Acts Jan. 12, 1903, c. 90, 32 Stat. 767; July 2, 1909, c. 2, § 32, 36 Stat. 10; March 3, 1919, c. 97, § 33.)

§ 3803. Laws relating to Census Office continued in force; repeal of other statutes.—The Act establishing the permanent Census Office, approved March sixth, nineteen hundred and two, and Acts amendatory thereof and supplemental thereto, except as are herein amended, shall remain in full force. That the Act entitled "An Act to provide for the thirteenth and subsequent decennial censuses," approved July second, nineteen hundred and nine, and Acts amendatory thereof, and all other laws and parts of laws inconsistent with the provisions of this Act, are hereby repealed. (Acts July 2, 1909, c. 2, § 33, 36 Stat. 10; March 3, 1919, c. 97, § 34.)

§ 3807a. Leather statistics.—The Director of the Census be, and he is hereby, authorized and directed to collect and publish statistics monthly concerning—

(a) The quantities and classes of hides and skins, owned or stored, and the quantities and classes of such products disposed of during the preceding census month by packers, abattoirs, butchers, tanners, jobbers, dealers, wholesalers, importers, and exporters;

(b) The quantities and classes of hides and skins in the process of tanning or manufacture, the quantities and amount of finished product for the preceding month;

(c) The quantities and classes of leather owned or stored and manufactured during the preceding census month by tanners, jobbers, dealers, wholesalers, importers, exporters, and establishments cutting or consuming leather.

The information furnished by any individual establishment under the provisions of this Act shall be considered as strictly confidential and shall be used only for the statistical purposes for which it is supplied. Any employee of the Bureau of Census who, without the written authority of the Director of the Census, shall publish or communicate any information given into his possession by reason of his employment under the provisions of this Act shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned not more than one year, or both.

It shall be the duty of every owner, president, or treasurer, secretary, director, or other officer or agent of any abattoir and of any packing, tanning, jobbing, dealing, wholesaling, importing, or exporting establishment where hides and skins are stored or sold, or leather is tanned, treated, finished, or stored or any establishment is engaged in the cutting of leather or in the production of boots and shoes, gloves, saddlery, harness, or other manufactures of leather goods, wherever leather is consumed, when requested by the Director of the Census or by any special agent or other employee of the Census Office acting under the instructions of said director to furnish completely and accurately to the best of his knowledge, all the

information authorized to be collected by preceding paragraphs of this Act. The demand of the Director of the Census for such information shall be made in writing or by a visiting representative and if made in writing shall be forwarded by registered mail and the registry receipt of the Post Office Department shall be accepted as prima facie evidence of such demand. Any owner, president, treasurer, secretary, director, or other officer or agent of any establishment required to furnish information under the provisions of this Act, who under the conditions hereinbefore stated shall refuse or willfully neglect to furnish any of the information herein provided for or shall willfully give answers that are false, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$1,000. (Act June 5, 1920, c. 263, §§ 1-3.)

TITLE XXXIV.

THE PUBLIC LANDS.

CHAPTER 1.

SURVEYORS AND DEPUTY SURVEYORS.

§ 3831. Clerk-hire.

Note.—By Act March 1, 1919, c. 86, § 1, it is provided that "expenses chargeable to the foregoing appropriations for clerk-hire and incidental expenses in the offices of the surveyors general shall not be incurred by the respective surveyors general in the conduct of said offices, except upon previous specific authorization by the Commissioner of the General Land Office."

§ 3834. **Detail of clerks.**—The Secretary of the Interior is authorized to detail temporarily clerks from the office of one surveyor general to another as the necessities of the service may require and to pay their actual necessary traveling expenses in going to and returning from such office out of the appropriation for surveying the public lands. A detailed statement of traveling expenses incurred hereunder shall be made to Congress at the beginning of each regular session thereof. (Acts May 10, 1916, c. 117, § 1, 39 Stat. 104; March 3, 1917, c. 163, § 1, 39 Stat. 1108; July 3, 1918, c. 130, § 1, 40 Stat.; March 1, 1919, c. 86, § 1; May 29, 1920, c. 214, § 1.)

CHAPTER 2.

REGISTERS AND RECEIVERS.

§ 3861. **Repayment of moneys deposited in Treasury.**—When purchase moneys and commissions paid under any public land law have been or shall hereafter be covered into the Treasury of the United States under any application to make any filing, location, selection, entry, or proof, such purchase moneys and commissions shall be repaid to the person who made such application, entry, or proof, or to his legal representatives, in all cases where such application, entry, or proof has been or shall hereafter be rejected, and neither such applicant nor his legal representatives shall have been guilty of any fraud or attempted fraud in connection with such application: Provided, That such person or his legal representatives shall file a request for the repayment of such purchase moneys and commissions within two years from the rejection of such application, entry, or proof, or within two years from the passage of this Act as to such applications, proofs, or entries, as have been heretofore rejected.

In all cases where it shall appear to the satisfaction of the Secretary of the Interior that any person has heretofore or shall hereafter make any payment to the United States under the public land laws in excess of the amount he was lawfully required to pay under such laws, such excess shall be repaid to such person or to his legal representatives: Provided, That such person or his legal representatives shall file a request for the repayment of such excess within two years after the patent has

issued for the land embraced in such payment, or within two years from the passage of this Act as to such excess payments as have heretofore been made.

When the Commissioner of the General Land Office shall ascertain the amount of any excess moneys, purchase moneys, or commissions in any case where repayment is authorized by this statute, the Secretary of the Interior shall at once certify such amounts to the Secretary of the Treasury, who is hereby authorized and directed to make repayment of all amounts so certified out of any moneys not otherwise appropriated and issue his warrant in settlement thereof.

The Secretary of the Interior is hereby authorized to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this Act into full force and effect. (Acts March 26, 1908, c. 102, §§ 1-3, 35 Stat. 48; Dec. 11, 1919, c. 5, §§ 1-4.)

CHAPTER 3. LAND DISTRICTS.

§ 3878. Allowance of office rent and clerk hire for consolidated land offices.

Note.—Act July 19, 1919, c. 24, § 1, provides that "no expenses chargeable to the Government shall be incurred by registers and receivers in the conduct of local land offices except upon previous specific authorization by the Commissioner of the General Land Office."

CHAPTER 5. HOMESTEADS.

§ 3899. Leaves of absence.

Note.—Act Sept. 29, 1919, c. 64, § 1, provides that "every person who, after discharge from the military or naval service of the United States during the war against Germany and its allies, is furnished any course of vocational rehabilitation under the terms of the Vocational Rehabilitation Act approved June 27, 1918, upon the ground that he comes within Article III of the Act of October 6, 1917, fortieth volume, Statutes at Large, page 398, and who before entering upon such course shall have made entry upon or application for public lands of the United States under the homestead laws, or who has settled or shall hereafter settle upon public lands, shall be entitled to a leave of absence from his land for the purpose of undergoing training by the Federal Board of Vocational Education, and such absence, while actually engaged in such training shall be counted as constructive residence: Provided, That no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year."

§ 3900. Period of leave of absence.—The entryman mentioned in section twenty-two hundred and ninety-one of Revised Statutes of the United States, as amended by the Act of June sixth, nineteen hundred and twelve, Thirty-seventh Statutes, one hundred and twenty-three, upon filing in the local land office notice of the beginning of such absence at his option shall be entitled to a leave of absence in one or two continuous periods, not exceeding in the aggregate five months in each year after establishing residence: Provided, That the register and receiver of the local land office under rules and regulations made by the Commissioner of the General Land Office may, upon proper showing, upon application of the homesteader, and only for climatic conditions, which makes residence on the homestead for seven months in each year a hardship, reduce the term of residence to not more than six months in each year, over a period of four years, or to not more than five months each year over a period of five years, but total residence required shall in no event exceed twenty-five months, not less than five of which shall be in each year; proof to be made within five years after entry; and upon the termination of such absence, in each period, the entryman shall file a notice of such termination in the local land office; but in case of commutation the fourteen months' actual residence, as now required by law, must be shown, and the person commuting be at the time a citizen of the United States.

Any qualified person who has heretofore or shall hereafter in good faith make settlement upon and improve unsurveyed unreserved unappropriated public lands of the United States with intention, upon survey, of entering same under the homestead laws shall be entitled to a leave of absence in one or two periods not exceeding in the aggregate five months in each year

after establishment of residence: Provided, That he shall have plainly marked on the ground the exterior boundaries of the lands claimed and have filed in the local land office notice of the approximate location of the lands settled upon and claimed, of the period of intended absence, and that he shall upon the termination of the absence and his return to the land file notice thereof in the local land office. (First paragraph, Acts Aug. 22, 1914, c. 270, 38 Stat. 704; Feb. 25, 1919, c. 21; second paragraph, Act July 3, 1916, c. 214, 39 Stat.)

§ 3935a. Preferred right of entry by soldiers, sailors, and marines.—Hereafter, for the period of two years following the passage of this Act, on the opening of public or Indian lands to entry, or the restoration to entry of public lands theretofore withdrawn from entry, such opening or restoration shall, in the order thereof, provide for a period of not less than sixty days before the general opening of such lands to disposal in which officers, soldiers, sailors, or marines who have served in the Army or Navy of the United States in the war with Germany and been honorably separated or discharged therefrom or placed in the Regular Army or Naval Reserve shall have a preferred right of entry under the homestead or desert land laws, if qualified thereunder, except as against prior existing valid settlement rights and as against preference rights conferred by existing laws or equitable claims subject to allowance and confirmation: Provided, That the rights and benefits conferred by this Act shall not extend to any person who, having been drafted for service under the provisions of the Selective Service Act, shall have refused to render such service or to wear the uniform of such service of the United States.

The Secretary of the Interior is hereby authorized to make any and all regulations necessary to carry into full force and effect the provisions hereof. (Res. No. 29, Feb. 14, 1920, c. 76.)

§ 3935b. Laws applicable to entries by soldiers and sailors; service in Mexico or in war with Germany.—Subject to the conditions therein expressed, as to length of service and honorable discharge, the provisions of sections twenty-three hundred and four and twenty-three hundred and five, Revised Statutes of the United States, shall be applicable in all cases of military and naval service rendered in connection with the Mexican border operations or during the war with Germany and its allies as defined by public resolution numbered thirty-two, approved August twenty-ninth, nineteen hundred and sixteen, and the Act approved July twenty-eighth, nineteen hundred and seventeen. (Act Feb. 25, 1919, c. 37.)

Note.—R. S. §§ 2304, 2305, and the other statutes referred to, are found in Barnes' Federal Code at §§ 3934, 3941, 3942.

§ 3957. Stock-raising homesteads.—From and after the passage of this Act it shall be lawful for any person qualified to make entry under the homestead laws of the United States to make a stock-raising homestead entry for not exceeding six hundred and forty acres of unappropriated unreserved public land in reasonably compact form: Provided, however, That the land so entered shall theretofore have been designated by the Secretary of the Interior as "stock-raising lands."

The Secretary of the Interior is hereby authorized, on application or otherwise, to designate as stock-raising lands subject to entry under this Act lands the surface of which is, in his opinion, chiefly valuable for grazing and raising forage crops, do not contain merchantable timber, are not susceptible of irrigation from any known source of water supply, and are of such character that six hundred and forty acres are reasonably required for the support of a family: Provided, That where any person qualified to make original or additional entry under the provisions of this Act shall make application to enter any unappropriated public land which has not been designated as subject to entry (provided said application is accompanied and supported by properly corroborated affidavit of the applicant, in duplicate, showing prima facie that the land applied for is of the character contemplated by this Act), such application, together with the regular fees and commissions, shall be received by the register and receiver of the land district in which said land is located and suspended until it shall have been determined by the Secretary of the Interior whether said land is actually of that character. That during such suspension the land described

in the application shall not be disposed of; and if the said land shall be designated under this Act, then such application shall be allowed; otherwise it shall be rejected, subject to appeal; but no right to occupy such lands shall be acquired by reason of said application until said lands have been designated as stock-raising lands.

Any qualified homestead entryman may make entry under the homestead laws of lands so designated by the Secretary of the Interior, according to legal subdivisions, in areas not exceeding six hundred and forty acres, and in compact form so far as may be subject to the provisions of this Act, and secure title thereto by compliance with the terms of the homestead laws: Provided, That a former homestead entry of land of the character described in section two hereof shall not be a bar to the entry of a tract within a radius of twenty miles from such former entry under the provisions of this Act, subject to the requirements of law as to residence and improvements, which, together with the former entry, shall not exceed six hundred and forty acres: Provided further, That the entryman shall be required to enter all contiguous areas of the character herein described open to entry prior to the entry of any noncontiguous land: Provided further, That instead of cultivation as required by the homestead laws the entryman shall be required to make permanent improvements upon the land entered before final proof is submitted tending to increase the value of the same for stock-raising purposes, of the value of not less than \$1.25 per acre, and at least one-half of such improvements shall be placed upon the land within three years after the date of entry thereof.

Any homestead entryman of lands of the character herein described who has not submitted final proof upon his existing entry shall have the right to enter, subject to the provisions of this Act, such amount of lands designated for entry under the provisions of this Act, within a radius of twenty miles from said existing entry, as shall not, together with the amount embraced in his original entry, exceed six hundred and forty acres, and residence upon the original entry shall be credited on both entries, but improvements must be made on the additional entry equal to \$1.25 for each acre thereof: Provided, That the entryman shall be required to enter all contiguous areas of the character herein described open to entry prior to the entry of any noncontiguous land.

Persons who have submitted final proof upon, or received patent for, lands of the character herein described under the homestead laws, and who own and reside upon the land so acquired, may, subject to the provisions of this Act, make additional entry for and obtain patent to lands designated for entry under the provisions of this Act, within a radius of twenty miles from the lands theretofore acquired under the homestead laws, which, together with the area theretofore acquired under the homestead laws, shall not exceed six hundred and forty acres, on proof of the expenditure required by this Act on account of permanent improvements upon the additional entry: Provided, That the entryman shall be required to enter all contiguous areas of the character herein described open to entry prior to the entry of any noncontiguous land.

Any person who is the head of a family, or who has arrived at the age of twenty-one years and is a citizen of the United States, who has entered or acquired under the homestead laws, prior to the passage of this Act, lands of the character described in this Act, the area of which is less than six hundred and forty acres, and who is unable to exercise the right of additional entry herein conferred because no lands subject to entry under this Act adjoin the tract so entered or acquired or lie within the twenty-mile limit provided for in this Act, may, upon submitting proof that he resides upon and has not sold the land so entered or acquired and against which land there are no encumbrances, relinquish or reconvey to the United States the land so occupied, entered, or acquired, and in lieu thereof, within the same land-office district, may enter and acquire title to six hundred and forty acres of the land subject to entry under this Act, but must show compliance with all the provisions of this Act respecting the new entry and with all the provisions of existing homestead laws except as modified herein.

The commutation provisions of the homestead laws shall not apply to any entries made under this Act.

Any homestead entrymen or patentees who shall be entitled to additional entry under this Act shall have, for ninety days after the designation of

lands subject to entry under the provisions of this Act and contiguous to those entered or owned and occupied by him, the preferential right to make additional entry as provided in this Act: Provided, That where such lands contiguous to the lands of two or more entrymen or patentees entitled to additional entries under this section are not sufficient in area to enable such entrymen to secure by additional entry the maximum amounts to which they are entitled, the Secretary of the Interior is authorized to make an equitable division of the lands among the several entrymen or patentees, applying to exercise preferential rights, such division to be in tracts of not less than forty acres, or other legal subdivision, and so made as to equalize as nearly as possible the area which such entrymen and patentees will acquire by adding the tracts embraced in additional entries to the lands originally held or owned by them: Provided further, That where but one such tract of vacant land may adjoin the lands of two or more entrymen or patentees entitled to exercise preferential right hereunder, the tract in question may be entered by the person who first submits to the local land office his application to exercise said preferential right.

All entries made and patents issued under the provisions of this Act shall be subject to and contain a reservation to the United States of all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same. The coal and other mineral deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal and mineral land laws in force at the time of such disposal. Any person qualified to locate and enter the coal or other mineral deposits, or having the right to mine and remove the same under the laws of the United States, shall have the right at all times to enter upon the lands entered or patented, as provided by this Act for the purpose of prospecting for coal or other mineral therein, provided he shall not injure, damage, or destroy the permanent improvements of the entryman or patentee, and shall be liable to and shall compensate the entryman or patentee for all damages to the crops on such lands by reason of such prospecting. Any person who has acquired from the United States the coal or other mineral deposits in any such land, or the right to mine and remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining or removal of the coal or other minerals, first, upon securing the written consent or waiver of the homestead entryman or patentee; second, upon payment of the damages to crops or other tangible improvements to the owner thereof, where agreement may be had as to the amount thereof; or, third, in lieu of either of the foregoing provisions, upon the execution of a good and sufficient bond or undertaking to the United States for the use and benefit of the entryman or owner of the land, to secure the payment of such damages to the crops or tangible improvements of the entryman or owner, as may be determined and fixed in an action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties thereon, such bond or undertaking to be in form and in accordance with rules and regulations prescribed by the Secretary of the Interior and to be filed with and approved by the register and receiver of the local land office of the district wherein the land is situate, subject to appeal to the Commissioner of the General Land Office: Provided, That all patents issued for the coal or other mineral deposits herein reserved shall contain appropriate notations declaring them to be subject to the provisions of this Act with reference to the disposition, occupancy, and use of the land as permitted to an entryman under this Act.

Lands containing water holes or other bodies of water needed or used by the public for watering purposes shall not be designated under this Act but may be reserved under the provisions of the Act of June twenty-fifth, nineteen hundred and ten, and such lands heretofore or hereafter reserved shall, while so reserved, be kept and held open to the public use for such purposes under such general rules and regulations as the Secretary of the Interior may prescribe: Provided, That the Secretary may, in his discretion, also withdraw from entry lands necessary to insure access by the public to watering places reserved hereunder and needed for use in the movement of stock to summer and winter ranges or to shipping points, and may prescribe such rules and regulations as may be necessary for the proper administration and use of such lands: Provided further, That

such driveways shall not be of greater number or width than shall be clearly necessary for the purpose proposed and in no event shall be more than one mile in width for a driveway less than twenty miles in length, not more than two miles in width for a driveway over twenty and not more than thirty-five miles in length and not over five miles in width for driveways over thirty-five miles in length: Provided further, That all stock so transported over such driveways shall be moved an average of not less than three miles per day for sheep and goats and an average of not less than six miles per day for cattle and horses.

The Secretary of the Interior is hereby authorized to make all necessary rules and regulations in harmony with the provisions and purposes of this Act for the purpose of carrying the same into effect. (Acts Dec. 29, 1916, c. 9, §§ 1-11, 39 Stat. 862; Sept. 29, 1919, c. 63, § 1.)

CHAPTER 6.

MINERAL LANDS AND MINING RESOURCES.

§ 3976. Regulations by miners.

Note.—Res. Nov. 13, 1919, No. 20, c. 106, provides that the provision of this section "which requires on each mining claim located and until a patent has been issued therefor, not less than \$100 worth of labor to be performed, or improvements aggregating such amount to be made each year, be, and the same is hereby suspended as to all mining claims in the United States, including Alaska, during the calendar year 1919: Provided, That every claimant of any such mining claim in order to obtain the benefits of this resolution shall file or cause to be filed in the office where the location notice or certificate is recorded on or before December 31, 1919, a notice of his desire to hold said mining claim under this resolution."

§ 4023a. Lease and disposition of mineral lands; extraction of helium; aliens.—Deposits of coal, phosphate, sodium, oil, oil shale, or gas, and lands containing such deposits owned by the United States, including those in national forests, but excluding lands acquired under the Act known as the Appalachian Forest Act, approved March 1, 1911 (Thirty-sixth Statutes, page 961), and those in national parks, and in lands withdrawn or reserved for military or naval uses or purposes, except as hereinafter provided, shall be subject to disposition in the form and manner provided by this Act to citizens of the United States, or to any association of such persons, or to any corporation organized under the laws of the United States, or of any State or Territory thereof, and in the case of coal, oil, oil shale, or gas, to municipalities: Provided, That the United States reserves the right to extract helium from all gas produced from lands permitted, leased, or otherwise granted under the provisions of this Act, under such rules and regulations as shall be prescribed by the Secretary of the Interior: Provided further, That in the extraction of helium from gas produced from such lands, it shall be so extracted as to cause no substantial delay in the delivery of gas produced from the well to the purchaser thereof: And provided further, That citizens of another country, the laws, customs, or regulations of which, deny similar or like privileges to citizens or corporations of this country, shall not by stock ownership, stock holding, or stock control, own any interest in any lease acquired under the provisions of this Act. (Act Feb. 25, 1920, c. 85, § 1.)

§ 4023aa. Leasing of coal lands.—The Secretary of the Interior is authorized to, and upon the petition of any qualified applicant shall, divide any of the coal lands or the deposits of coal, classified and unclassified, owned by the United States, outside of the Territory of Alaska, into leasing tracts of forty acres each, or multiples thereof, and in such form as, in the opinion of the Secretary of the Interior, will permit the most economical mining of the coal in such tracts, but in no case exceeding two thousand five hundred and sixty acres in any one leasing tract, and thereafter the Secretary of the Interior shall, in his discretion, upon the request of any qualified applicant or on his own motion, from time to time, offer such lands or deposits of coal for leasing, and shall award leases thereon by competitive bidding or by such other methods as he may by general regulations adopt, to any qualified applicant: Provided, That the Secretary is hereby authorized, in awarding leases for coal lands heretofore improved and occupied or claimed in good faith, to consider and recognize equitable rights

of such occupants or claimants: Provided further, That where prospecting or exploratory work is necessary to determine the existence or workability of coal deposits in any unclaimed, undeveloped area, the Secretary of the Interior may issue, to applicants qualified under this Act, prospecting permits for a term of two years, for not exceeding two thousand five hundred and sixty acres; and if within said period of two years thereafter, the permittee shows to the Secretary that the land contains coal in commercial quantities, the permittee shall be entitled to a lease under this Act for all or part of the land in his permit: And provided further, That no lease of coal under this Act shall be approved or issued until after notice of the proposed lease, or offering for lease, has been given for thirty days in a newspaper of general circulation in the county in which the lands or deposits are situated: And provided further, That no company or corporation operating a common carrier railroad shall be given or hold a permit or lease under the provisions of this Act for any coal deposits except for its own use for railroad purposes; and such limitations of use shall be expressed in all permits and leases issued to such companies or corporations, and no such company or corporation shall receive or hold more than one permit or lease for each two hundred miles of its railroad line within the State in which said property is situated, exclusive of spurs or switches and exclusive of branch lines built to connect the leased coal with the railroad, and also exclusive of parts of the railroad operated mainly by power produced otherwise than by steam: And provided further, That nothing herein shall preclude such a railroad of less than two hundred miles in length from securing and holding one permit or lease hereunder. (Act Feb. 25, 1920, c. 85, § 2.)

§ 4023b. Area in coal lease.—Any person, association, or corporation holding a lease of coal lands or coal deposits under this Act may, with the approval of the Secretary of the Interior, upon a finding by him that it will be for the advantage of the lessee and the United States, secure modifications of his or its original lease by including additional coal lands or coal deposits contiguous to those embraced in such lease, but in no event shall the total area embraced in such modified lease exceed in the aggregate two thousand five hundred and sixty acres. (Act Feb. 25, 1920, c. 85, § 3.)

§ 4023bb. Inclusion in coal lease of additional area.—Upon satisfactory showing by any lessee to the Secretary of the Interior that all of the workable deposits of coal within a tract covered by his or its lease will be exhausted, worked out, or removed within three years thereafter, the Secretary of the Interior may, within his discretion, lease to such lessee an additional tract of land or coal deposits, which, including the coal area remaining in the existing lease, shall not exceed two thousand five hundred and sixty acres, through the same procedure and under the same conditions as in case of an original lease. (Act Feb. 25, 1920, c. 85, § 4.)

§ 4023c. Consolidation of coal leases.—If, in the judgment of the Secretary of the Interior, the public interest will be subserved thereby, lessees holding under lease areas not exceeding the maximum permitted under this Act may consolidate their leases through the surrender of the original leases and the inclusion of such areas in a new lease of not to exceed two thousand five hundred and sixty acres of contiguous lands. (Act Feb. 25, 1920, c. 85, § 5.)

§ 4023cc. Single coal lease on noncontiguous tracts.—Where coal or phosphate lands aggregating two thousand five hundred and sixty acres and subject to lease hereunder do not exist as contiguous areas, the Secretary of the Interior is authorized, if, in his opinion the interests of the public and of the lessee will be thereby subserved, to embrace in a single lease noncontiguous tracts which can be operated as a single mine or unit. (Act Feb. 25, 1920, c. 85, § 6.)

§ 4023d. Coal royalties; operation of mines.—For the privilege of mining or extracting the coal in the lands covered by the lease the lessee shall pay to the United States such royalties as may be specified in the lease, which shall be fixed in advance of offering the same, and which shall not be less than 5 cents per ton of two thousand pounds, due and payable at

the end of each third month succeeding that of the extraction of the coal from the mine, and an annual rental, payable at the date of such lease and annually thereafter, on the lands or coal deposits covered by such lease, at such rate as may be fixed by the Secretary of the Interior prior to offering the same, which shall not be less than 25 cents per acre for the first year thereafter, not less than 50 cents per acre for the second, third, fourth, and fifth years, respectively, and not less than \$1 per acre for each and every year thereafter during the continuance of the lease, except that such rental for any year shall be credited against the royalties as they accrue for that year. Leases shall be for indeterminate periods upon condition of diligent development and continued operation of the mine or mines, except when such operation shall be interrupted by strikes, the elements, or casualties not attributable to the lessee, and upon the further condition that at the end of each twenty-year period succeeding the date of the lease such readjustment of terms and conditions may be made as the Secretary of the Interior may determine, unless otherwise provided by law at the time of the expiration of such periods: Provided, That the Secretary of the Interior may, if in his judgment the public interest will be subserved thereby, in lieu of the provision herein contained requiring continuous operation of the mine or mines, provide in the lease for the payment of an annual advance royalty upon a minimum number of tons of coal, which in no case shall aggregate less than the amount of rentals herein provided for: Provided further, That the Secretary of the Interior may permit suspension of operation under such lease for not to exceed six months at any one time when market conditions are such that the lease can not be operated except at a loss. (Act Feb. 25, 1920, c. 85, § 7.)

§ 4023dd. **License to individuals and cities for mining coal.**—In order to provide for the supply of strictly local domestic needs for fuel, the Secretary of the Interior may, under such rules and regulations as he may prescribe in advance, issue limited licenses or permits to individuals or associations of individuals to prospect for, mine, and take for their use but not for sale, coal from the public lands without payment of royalty for the coal mined or the land occupied, on such conditions not inconsistent with this Act as in his opinion will safeguard the public interests: Provided, That this privilege shall not extend to any corporations: Provided further, That in the case of municipal corporations the Secretary of the Interior may issue such limited license or permit, for not to exceed three hundred and twenty acres for a municipality of less than one hundred thousand population, and not to exceed one thousand two hundred and eighty acres for a municipality of not less than one hundred thousand and not more than one hundred and fifty thousand population; and not to exceed two thousand five hundred and sixty acres for a municipality of one hundred and fifty thousand population or more, the land to be selected within the State wherein the municipal applicant may be located, upon condition that such municipal corporations will mine the coal therein under proper conditions and dispose of the same without profit to residents of such municipality for household use: And provided further, That the acquisition or holding of a lease under the preceding sections of this Act shall be no bar to the holding of such tract or operation of such mine under said limited license. (Act Feb. 25, 1920, c. 85, § 8.)

§ 4023e. **Lease of phosphate lands.**—The Secretary of the Interior is hereby authorized to lease to any applicant qualified under this Act any lands belonging to the United States containing deposits of phosphates, under such restrictions and upon such terms as are herein specified, through advertisement, competitive bidding, or such other methods as the Secretary of the Interior may by general regulation adopt. (Act Feb. 25, 1920, c. 85, § 9.)

§ 4023ee. **Area in phosphate lease.**—Each lease shall be for not to exceed two thousand five hundred and sixty acres of land to be described by the legal subdivisions of the public land surveys, if surveyed; if unsurveyed, to be surveyed by the Government at the expense of the applicant for lease, in accordance with rules and regulations prescribed by the Secretary of the Interior and the lands leased shall be conformed to and taken in accordance

with the legal subdivisions of such survey; deposits made to cover expense of surveys shall be deemed appropriated for that purpose; and any excess deposits shall be repaid to the person, association, or corporation making such deposits or their legal representatives: Provided, That the land embraced in any one lease shall be in compact form, the length of which shall not exceed two and one-half times its width. (Act Feb. 25, 1920, c. 85, § 10.)

§ 4023f. Phosphate royalties; operation of mines.—For the privilege of mining or extracting the phosphates or phosphate rock covered by the lease the lessee shall pay to the United States such royalties as may be specified in the lease, which shall be fixed by the Secretary of the Interior in advance of offering the same, which shall be not less than 2 per centum of the gross value of the output of phosphates or phosphate rock at the mine, due and payable at the end of each third month succeeding that of the sale or other disposition of the phosphates or phosphate rock, and an annual rental payable at the date of such lease and annually thereafter on the area covered by such lease at such rate as may be fixed by the Secretary of the Interior prior to offering the lease, which shall be not less than 25 cents per acre for the first year thereafter, 50 cents per acre for the second, third, fourth, and fifth years, respectively, and \$1 per acre for each and every year thereafter during the continuance of the lease, except that such rental for any year shall be credited against the royalties as they accrue for that year. Leases shall be for indeterminate periods upon condition of a minimum annual production, except when operation shall be interrupted by strikes, the elements, or casualties not attributable to the lessee, and upon the further condition that at the end of each twenty-year period succeeding the date of the lease such readjustment of terms and conditions shall be made as the Secretary of the Interior shall determine unless otherwise provided by law at the time of the expiration of such periods: Provided, That the Secretary of the Interior may permit suspension of operation under such lease for not exceeding twelve months at any one time when market conditions are such that the lease can not be operated except at a loss. (Act Feb. 25, 1920, c. 85, § 11.)

§ 4023ff. Use of surface in phosphate mining.—Any qualified applicant to whom the Secretary of the Interior may grant a lease to develop and extract phosphates, or phosphate rock, under the provisions of this Act shall have the right to use so much of the surface of unappropriated and unentered lands, not exceeding forty acres, as may be determined by the Secretary of the Interior to be necessary for the proper prospecting for or development, extraction, treatment, and removal of such mineral deposits. (Act Feb. 25, 1920, c. 85, § 12.)

§ 4023g. Prospecting permit for oil and gas.—The Secretary of the Interior is hereby authorized, under such necessary and proper rules and regulations as he may prescribe, to grant to any applicant qualified under this Act a prospecting permit, which shall give the exclusive right, for a period not exceeding two years, to prospect for oil or gas upon not to exceed two thousand five hundred and sixty acres of land wherein such deposits belong to the United States and are not within any known geological structure of a producing oil or gas field upon condition that the permittee shall begin drilling operations within six months from the date of the permit, and shall, within one year from and after the date of permit, drill one or more wells for oil or gas to a depth of not less than five hundred feet each, unless valuable deposits of oil or gas shall be sooner discovered, and shall, within two years from date of the permit, drill for oil or gas to an aggregate depth of not less than two thousand feet unless valuable deposits of oil or gas shall be sooner discovered. The Secretary of the Interior may if he shall find that the permittee has been unable with the exercise of diligence to test the land in the time granted by the permit, extend any such permit for such time, not exceeding two years, and upon such conditions as he shall prescribe. Whether the lands sought in any such application and permit are surveyed or unsurveyed the applicant shall, prior to filing his application for permit, locate such lands in

a reasonably compact form and according to the legal subdivision of the public land surveys if the land be surveyed; and in an approximately square or rectangular tract if the land be an unsurveyed tract, the length of which shall not exceed two and one-half times its width, and if he shall cause to be erected upon the land for which a permit is sought a monument not less than four feet high, at some conspicuous place thereon, and shall post a notice in writing on or near said monument, stating that an application for permit will be made within thirty days after date of posting said notice, the name of the applicant, the date of the notice, and such general description of the land to be covered by such permit by reference to courses and distances from such monument and such other natural objects and permanent monuments as will reasonably identify the land, stating the amount thereof in acres, he shall during the period of thirty days following such marking and posting, be entitled to a preference right over others to a permit for the land so identified. The applicant shall, within ninety days after receiving a permit, mark each of the corners of the tract described in the permit upon the ground with substantial monuments, so that the boundaries can be readily traced on the ground, and shall post in a conspicuous place upon the lands a notice that such permit has been granted and a description of the lands covered thereby: Provided, That in the Territory of Alaska prospecting permits not more than five in number may be granted to any qualified applicant for periods not exceeding four years, actual drilling operations shall begin within two years from date of permit, and oil and gas wells shall be drilled to a depth of not less than five hundred feet, unless valuable deposits of oil or gas shall be sooner discovered, within three years from date of the permit and to an aggregate depth of not less than two thousand feet unless valuable deposits of oil or gas shall be sooner discovered, within four years from date of permit: Provided further, That in said Territory the applicant shall have a preference right over others to a permit for land identified by temporary monuments and notice posted on or near the same for six months following such marking and posting, and upon receiving a permit he shall mark the corners of the tract described in the permit upon the ground with substantial monuments within one year after receiving such permit. (Act Feb. 25, 1920, c. 85, § 13.)

§ 4023gg. Oil and gas leases.—Upon establishing to the satisfaction of the Secretary of the Interior that valuable deposits of oil or gas have been discovered within the limits of the land embraced in any permit, the permittee shall be entitled to a lease for one-fourth of the land embraced in the prospecting permit: Provided, That the permittee shall be granted a lease for as much as one hundred and sixty acres of said lands, if there be that number of acres within the permit. The area to be selected by the permittee, shall be in compact form and, if surveyed, to be described by the legal subdivisions of the public-land surveys; if unsurveyed, to be surveyed by the Government at the expense of the applicant for lease in accordance with rules and regulations to be prescribed by the Secretary of the Interior and the lands leased shall be conformed to and taken in accordance with the legal subdivisions of such surveys; deposits made to cover expense of surveys shall be deemed appropriated for that purpose and any excess deposits may be repaid to the person or persons making such deposit or their legal representatives. Such leases shall be for a term of twenty years upon a royalty of 5 per centum in amount or value of the production and the annual payment in advance of a rental of \$1 per acre, the rental paid for any one year to be credited against the royalties as they accrue for that year, with the right of renewal as prescribed in section 17 hereof. The permittee shall also be entitled to a preference right to a lease for the remainder of the land in his prospecting permit at a royalty of not less than 12½ per centum in amount or value of the production, and under such other conditions as are fixed for oil or gas leases in this Act, the royalty to be determined by competitive bidding or fixed by such other method as the Secretary may by regulations prescribe: Provided, That the Secretary shall have the right to reject any or all bids. (Act Feb. 25, 1920, c. 85, § 14.)

Note.—§ 17 is now § 4023i.

§ 4023h. Percentage payable to Government for oil or gas disposed of under the prospecting permit.—Until the permittee shall apply for lease to the one quarter of the permit area heretofore provided for he shall pay to the United States 20 per centum of the gross value of all oil or gas secured by him from the lands embraced within his permit and sold or otherwise disposed of or held by him for sale or other disposition. (Act Feb. 25, 1920, c. 85, § 15.)

§ 4023hh. Operations under oil or gas permits and leases.—All permits and leases of lands containing oil or gas, made or issued under the provisions of this Act, shall be subject to the condition that no wells shall be drilled within two hundred feet of any of the outer boundaries of the lands so permitted or leased, unless the adjoining lands have been patented or the title thereto otherwise vested in private owners, and to the further condition that the permittee or lessee will, in conducting his explorations and mining operations, use all reasonable precautions to prevent waste of oil or gas developed in the land, or the entrance of water through wells drilled by him to the oil sands or oil-bearing strata, to the destruction or injury of the oil deposits. Violations of the provisions of this section shall constitute grounds for the forfeiture of the permit or lease, to be enforced through appropriate proceedings in courts of competent jurisdiction. (Act Feb. 25, 1920, c. 85, § 16.)

§ 4023i. Lease of unappropriated oil and gas deposits on competitive bidding.—All unappropriated deposits of oil or gas situated within the known geologic structure of a producing oil or gas field and the unentered lands containing the same, not subject to preferential lease, may be leased by the Secretary of the Interior to the highest responsible bidder by competitive bidding under general regulations to qualified applicants in areas not exceeding six hundred and forty acres and in tracts which shall not exceed in length two and one-half times their width, such leases to be conditioned upon the payment by the lessee of such bonus as may be accepted and of such royalty as may be fixed in the lease, which shall not be less than $12\frac{1}{2}$ per centum in amount or value of the production, and the payment in advance of a rental of not less than \$1 per acre per annum thereafter during the continuance of the lease, the rental paid for any one year to be credited against the royalties as they accrue for that year. Leases shall be for a period of twenty years, with the preferential right in the lessee to renew the same for successive periods of ten years upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the time of the expiration of such periods. Whenever the average daily production of any oil well shall not exceed ten barrels per day, the Secretary of the Interior is authorized to reduce the royalty on future production when in his judgment the wells can not be successfully operated upon the royalty fixed in the lease. The provisions of this paragraph shall apply to all oil and gas leases made under this Act. (Act Feb. 25, 1920, c. 85, § 17.)

§ 4023ii. Lease of oil and gas embraced by placer mining law.—Upon relinquishment to the United States, filed in the General Land Office within six months after the approval of this Act, of all right, title, and interest claimed and possessed prior to July 3, 1910, and continuously since by the claimant or his predecessor in interest under the preexisting placer mining law to any oil or gas bearing land upon which there has been drilled one or more oil or gas wells to discovery embraced in the Executive order of withdrawal issued September 27, 1909, and not within any naval petroleum reserve, and upon payment as royalty to the United States of an amount equal to the value at the time of production of one-eighth of all the oil or gas already produced except oil or gas used for production purposes on the claim, or unavoidably lost, from such land, the claimant, or his successor, if in possession of such land, undisputed by any other claimant prior to July 1, 1919, shall be entitled to a lease thereon from the United States for a period of twenty years, at a royalty of not less than $12\frac{1}{2}$ per centum of all the oil or gas produced except oil or gas used for production purposes on the claim, or unavoidably lost: Provided, That not more than one-half of the area, but in no case to exceed three thousand two hundred acres, within the geologic oil or gas structure of a

producing oil or gas field shall be leased to any one claimant under the provision of this section when the area of such geologic oil structure exceeds six hundred and forty acres. Any claimant or his successor, subject to this limitation, shall, however, have the right to select and receive the lease as in this section provided for that portion of his claim or claims equal to, but not in excess of, said one-half of the area of such geologic oil structure, but not more than three thousand two hundred acres.

All such leases shall be made and the amount of royalty to be paid for oil and gas produced, except oil or gas used for production purposes on the claim, or unavoidably lost, after the execution of such lease shall be fixed by the Secretary of the Interior under appropriate rules and regulations: Provided, however, That as to all like claims situate within any naval petroleum reserve the producing wells thereon only shall be leased, together with an area of land sufficient for the operation thereof, upon the terms and payment of royalties for past and future production as herein provided for in the leasing of claims. No wells shall be drilled in the land subject to this provision within six hundred and sixty feet of any such leased well without the consent of the lessee: Provided, however, That the President may, in his discretion, lease the remainder or any part of any such claim upon which such wells have been drilled, and in the event of such leasing said claimant or his successor shall have a preference right to such lease: And provided further, That he may permit the drilling of additional wells by the claimant or his successor within the limited area of six hundred and sixty feet theretofore provided for upon such terms and conditions as he may prescribe.

No claimant for a lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section.

Upon the delivery and acceptance of the lease, as in this section provided, all suits brought by the Government affecting such lands may be settled and adjusted in accordance herewith and all moneys impounded in such suits or under the Act entitled "An Act to amend an Act entitled 'An Act to protect the locators in good faith of oil and gas lands who shall have affected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest,' approved March 2, 1911, approved August 25, 1914 (Thirty-eighth Statutes at Large, page 708), shall be paid over to the parties entitled thereto. In case of conflicting claimants for leases under this section, the Secretary of the Interior is authorized to grant leases to one or more of them as shall be deemed just. All leases hereunder shall inure to the benefit of the claimant and all persons claiming through or under him by lease, contract, or otherwise, as their interests may appear, subject, however, to the same limitation as to area and acreage as is provided for claimant in this section: Provided, That no claimant acquiring any interest in such lands since September 1, 1919, from a claimant on or since said date claiming or holding more than the maximum allowed claimant under this section shall secure a lease thereon or any interest therein, but the inhibition of this proviso shall not apply to an exchange of any interest in such lands made prior to the 1st day of January, 1920, which did not increase or reduce the area or acreage held or claimed in excess of said maximum by either party to the exchange: Provided further, That no lease or leases under this section shall be granted, nor shall any interest therein, inure to any person, association, or corporation for a greater aggregate area or acreage than the maximum in this section provided for. (Act Feb. 25, 1920, c. 85, § 18.)

§ 4023j. Validity of preexisting gas or oil placer claims.—Whenever the validity of any gas or petroleum placer claim under preexisting law to land embraced in the Executive order of withdrawal issued September 27, 1909, has been or may hereafter be drawn in question on behalf of the United States in any departmental or judicial proceedings, the President is hereby authorized at any time within twelve months after the approval of this Act to direct the compromise and settlement of any such controversy upon such terms and conditions as may be agreed upon, to be carried out by an exchange or division of land or division of the proceeds of operation. (Act Feb. 25, 1920, c. 85, § 18a.)

§ 4023jj. Permit or lease covering such claims.—Any person who on October 1, 1919, was a bona fide occupant or claimant of oil or gas lands under a claim initiated while such lands were not withdrawn from oil or gas location and entry, and who had previously performed all acts under then existing laws necessary to valid locations thereof except to make discovery, and upon which discovery had not been made prior to the passage of this Act, and who has performed work or expended on or for the benefit of such locations an amount equal in the aggregate of \$250 for each location if application therefor shall be made within six months from the passage of this Act shall be entitled to prospecting permits thereon upon the same terms and conditions, and limitations as to acreage, as other permits provided for in this Act, or where any such person has heretofore made such discovery, he shall be entitled to a lease thereon under such terms as the Secretary of the Interior may prescribe unless otherwise provided for in section 18 hereof: Provided, That where such prospecting permit is granted upon land within any known geologic structure of a producing oil or gas field, the royalty to be fixed in any lease thereafter granted thereon or any portion thereof shall be not less than $12\frac{1}{2}$ per centum of all the oil or gas produced except oil or gas used for production purposes on the claim, or unavoidably lost: Provided, however, That the provisions of this section shall not apply to lands reserved for the use of the Navy: Provided, however, That no claimant for a permit or lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section.

All permits or leases hereunder shall inure to the benefit of the claimant and all persons claiming through or under him by lease, contract, or otherwise, as their interests may appear. (Act Feb. 25, 1920, c. 85, § 19.)

Note.—§ 18 is now § 4023ii.

§ 4023k. Preference right of entrymen to oil and gas permit or lease.—In the case of lands bona fide entered as agricultural, and not withdrawn or classified as mineral at the time of entry, but not including lands claimed under any railroad grant, the entryman or patentee, or assigns, where assignment was made prior to January 1, 1918, if the entry has been patented with the mineral right reserved, shall be entitled to a preference right to a permit and to a lease, as herein provided, in case of discovery; and within an area not greater than a township such entryman and patentees, or assigns holding restricted patents may combine their holdings, not to exceed two thousand five hundred and sixty acres for the purpose of making joint application. Leases executed under this section and embracing only lands so entered shall provide for the payment of a royalty of not less than $12\frac{1}{2}$ per centum as to such areas within the permit as may not be included within the discovery lease to which the permittee is entitled under section 14 hereof. (Act Feb. 25, 1920, c. 85, § 20.)

Note.—§ 14 is now § 4023gg.

§ 4023kk. Lease of oil shale.—The Secretary of the Interior is hereby authorized to lease to any person or corporation qualified under this Act any deposits of oil shale belonging to the United States and the surface of so much of the public lands containing such deposits, or land adjacent thereto, as may be required for the extraction and reduction of the leased minerals, under such rules and regulations, not inconsistent with this Act, as he may prescribe; that no lease hereunder shall exceed five thousand one hundred and twenty acres of land, to be described by the legal subdivisions of the public-land surveys, or if unsurveyed, to be surveyed by the United States, at the expense of the applicant, in accordance with regulations to be prescribed by the Secretary of the Interior. Leases may be for indeterminate periods, upon such conditions as may be imposed by the Secretary of the Interior, including covenants relative to methods of mining, prevention of waste, and productive development. For the privilege of mining, extracting, and disposing of the oil or other minerals covered by a lease under this section the lessee shall pay to the United States such royalties as shall be specified in the lease and an annual rental, payable at the beginning of each year, at the rate of 50 cents per acre per annum, for the lands included in the lease, the rental paid for any

one year to be credited against the royalties accruing for that year; such royalties to be subject to readjustment at the end of each twenty-year period by the Secretary of the Interior: Provided, That for the purpose of encouraging the production of petroleum products from shales the Secretary may, in his discretion, waive the payment of any royalty and rental during the first five years of any lease: Provided, That any person having a valid claim to such minerals under existing laws on January 1, 1919, shall, upon the relinquishment of such claim, be entitled to a lease under the provisions of this section for such area of the land relinquished as shall not exceed the maximum area authorized by this section to be leased to an individual or corporation: Provided, however, That no claimant for a lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section: Provided further, That not more than one lease shall be granted under this section to any one person, association, or corporation. (Act Feb. 25, 1920, c. 85, § 21.)

§ 4023l. Alaska oil proviso.—Any bona fide occupant or claimant of oil or gas bearing lands in the Territory of Alaska, who, or whose predecessors in interest, prior to withdrawal had complied otherwise with the requirements of the mining laws, but had made no discovery of oil or gas in wells and who prior to withdrawal had made substantial improvements for the discovery of oil or gas on or for each location or had prior to the passage of this Act expended not less than \$250 in improvements on or for each location shall be entitled, upon relinquishment or surrender to the United States within one year from the date of this Act, or within six months after final denial or withdrawal of application for patent, to a prospecting permit or permits, lease or leases, under this Act covering such lands, not exceeding five permits or leases in number and not exceeding an aggregate of one thousand two hundred and eighty acres in each: Provided, That leases in Alaska under this Act whether as a result of prospecting permits or otherwise shall be upon such rental and royalties as shall be fixed by the Secretary of the Interior and specified in the lease, and be subject to readjustment at the end of each twenty-year period of the lease: Provided further, That for the purpose of encouraging the production of petroleum products in Alaska the Secretary may, in his discretion, waive the payment of any rental or royalty not exceeding the first five years of any lease. No claimant for a lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section. (Act Feb. 25, 1920, c. 85, § 22.)

§ 4023ll. Prospecting permit for sodium.—The Secretary of the Interior is hereby authorized and directed, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit which shall give the exclusive right to prospect for chlorides, sulphates, carbonates, borates, silicates, or nitrates of sodium dissolved in and soluble in water, and accumulated by concentration, in lands belonging to the United States for a period of not exceeding two years: Provided, That the area to be included in such a permit shall be not exceeding two thousand five hundred and sixty acres of land in reasonably compact form: Provided further, That the provisions of this section shall not apply to lands in San Bernardino County, California. (Act Feb. 25, 1920, c. 85, § 23.)

§ 4023m. Sodium leases.—Upon showing to the satisfaction of the Secretary of the Interior that valuable deposits of one of the substances enumerated in section 23 hereof has been discovered by the permittee within the area covered by his permit and that such land is chiefly valuable therefor the permittee shall be entitled to a lease for one-half of the land embraced in the prospecting permit, at a royalty of not less than one-eighth of the amount or value of the production, to be taken and described by legal subdivisions of the public-land surveys, or if the land be not surveyed by survey executed at the cost of the permittee in accordance with the rules and regulations to be prescribed by the Secretary of the Interior. The permittee shall also have the preference right to lease the remainder of the lands embraced within the limits of his permit at a

royalty of not less than one-eighth of the amount or value of the production to be fixed by the Secretary of the Interior. Lands known to contain such valuable deposits as are enumerated in section 23 hereof and not covered by permits or leases, except such lands as are situated in said county of San Bernardino, shall be held subject to lease, and may be leased by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, and in such areas as he shall fix, not exceeding two thousand five hundred and sixty acres; all leases to be conditioned upon the payment by the lessee of such royalty of not less than one-eighth of the amount or value of the production as may be fixed in the lease, and the payment in advance of a rental of 50 cents per acre for the first calendar year or fraction thereof and \$1 per acre per annum thereafter during the continuance of the lease, the rental paid for any one year to be credited on the royalty for that year. Leases may be for indeterminate periods, subject to readjustment at the end of each twenty-year period, upon such conditions not inconsistent herewith as may be incorporated in each lease or prescribed in general regulation theretofore issued by the Secretary of the Interior, including covenants relative to mining methods, waste, period of preliminary development, and minimum production, and a lessee under this section may be lessee of the remaining lands in his permit. (Act Feb. 25, 1920, c. 85, § 24.)

Note.—§ 23 is now § 4023ll.

§ 4028mm. Use of lands under sodium lease.—In addition to areas of such mineral land which may be included in any such prospecting permits or leases, the Secretary of the Interior, in his discretion, may grant to a permittee or lessee of lands containing sodium deposits, and subject to the payment of an annual rental of not less than 25 cents per acre, the exclusive right to use, during the life of the permit or lease, a tract of unoccupied nonmineral public land, not exceeding forty acres in area, for camp sites, refining works, and other purposes connected with and necessary to the proper development and use of the deposits covered by the permit or lease. (Act Feb. 25, 1920, c. 85, § 25.)

§ 4023n. Cancellation of prospecting permit.—The Secretary of the interior shall reserve and may exercise the authority to cancel any prospecting permit upon failure by the permittee to exercise due diligence in the prosecution of the prospecting work in accordance with the terms and conditions stated in the permit, and shall insert in every such permit under the provisions of this Act appropriate provisions for its cancellation by him. (Act Feb. 25, 1920, c. 85, § 26.)

§ 4023nn. Number of leases or interests held by one lessee; refineries; pipe lines and railroads; combination or trust.—No person, association, or corporation, except as herein provided, shall take or hold more than one coal, phosphate, or sodium lease during the life of such lease in any one State; no person, association, or corporation shall take or hold, at one time, more than three oil or gas leases granted hereunder in any one State, and not more than one lease within the geologic structure of the same producing oil or gas field; no corporation shall hold any interest as a stockholder of another corporation in more than such number of leases; and no person or corporation shall take or hold any interest or interests as a member of an association or associations or as a stockholder of a corporation or corporations holding a lease under the provisions hereof, which, together with the area embraced in any direct holding of a lease under this Act, or which, together with any other interest or interests as a member of an association or associations or as a stockholder of a corporation or corporations holding a lease under the provisions hereof, for any kind of mineral leased hereunder, exceeds in the aggregate an amount equivalent to the maximum number of acres of the respective kinds of minerals allowed to any one lessee under this Act. Any interests held in violation of this Act shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States district court for the district in which the property, or some part thereof, is located, except that any ownership or interest forbidden in this Act which may be acquired by descent, will, judgment, or decree may be held for two years and not longer after its acquisition:

Provided, That nothing herein contained shall be construed to limit sections 18, 18a, 19, and 22 or to prevent any number of lessees under the provisions of this Act from combining their several interests so far as may be necessary for the purposes of constructing and carrying on the business of a refinery, or of establishing and constructing as a common carrier a pipe line or lines of railroads to be operated and used by them jointly in the transportation of oil from their several wells, or from the wells of other lessees under this Act, or the transportation of coal: Provided further, That any combination for such purpose or purposes shall be subject to the approval of the Secretary of the Interior on application to him for permission to form the same: And provided further, That if any of the lands or deposits leased under the provisions of this Act shall be subleased, trusted, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner whatsoever, so that they form part of, or are in anywise controlled by any combination in the form of an unlawful trust, with consent of lessee, or form the subject of any contract or conspiracy in restraint of trade in the mining or selling of coal, phosphate, oil, oil shale, gas, or sodium entered into by the lessee, or any agreement or understanding, written, verbal, or otherwise to which such lessee shall be a party, of which his or its output is to be or become the subject, to control the price or prices thereof or of any holding of such lands by any individual, partnership, association, corporation, or control, in excess of the amounts of lands provided in this Act, the lease thereof shall be forfeited by appropriate court proceedings. (Act Feb. 25, 1920, c. 85, § 27.)

Note.—§ 18 is now § 4023ii; § 18a is now § 4023j; § 19 is now § 4023jj; § 22 is now § 4023l.

§ 4023o. Rights of way for pipe lines; duties as common carriers.—Rights of way through the public lands, including the forest reserves, of the United States are hereby granted for pipeline purposes for the transportation of oil or natural gas to any applicant possessing the qualifications provided in section 1 of this Act, to the extent of the ground occupied by the said pipe line and twenty-five feet on each side of the same under such regulations as to survey, location, application, and use as may be prescribed by the Secretary of the Interior and upon the express condition that such pipe lines shall be constructed, operated, and maintained as common carriers: Provided, That the Government shall in express terms reserve and shall provide in every lease of oil lands hereunder that the lessee, assignee, or beneficiary, if owner, or operator or owner of a controlling interest in any pipe line or of any company operating the same which may be operated accessible to the oil derived from lands under such lease, shall at reasonable rates and without discrimination accept and convey the oil of the Government or of any citizen or company not the owner of any pipe line, operating a lease or purchasing gas or oil under the provisions of this Act: Provided further, That no right of way shall hereafter be granted over said lands for the transportation of oil or natural gas except under and subject to the provisions, limitations, and conditions of this section. Failure to comply with the provisions of this section or the regulations prescribed by the Secretary of the Interior shall be ground for forfeiture of the grant by the United States district court for the district in which the property, or some part thereof, is located in an appropriate proceeding. (Act Feb. 25, 1920, c. 85, § 28.)

Note.—§ 1 is now § 4023a.

§ 4023oo. Reservations in leases.—Any permit, lease, occupation, or use permitted under this Act shall reserve to the Secretary of the Interior the right to permit upon such terms as he may determine to be just, for joint or several use, such easements or rights of way, including easements in tunnels upon, through, or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same, or of other lands containing the deposits described in this Act, and the treatment and shipment of the products thereof by or under authority of the Government, its lessees, or permittees, and for other public purposes: Provided, That said Secretary, in his discretion, in making any lease under this Act, may reserve to the United States the right to lease, sell, or otherwise dispose of the

surface of the lands embraced within such lease under existing law or laws hereafter enacted, in so far as said surface is not necessary for use of the lessee in extracting and removing the deposits therein: Provided further, That if such reservation is made it shall be so determined before the offering of such lease: And provided further, That the said Secretary, during the life of the lease, is authorized to issue such permits for easements herein provided to be reserved. (Act Feb. 25, 1920, c. 85, § 29.)

§ 4023p. Subletting, assignment or surrender of lease; contents of lease.—No lease issued under the authority of this Act shall be assigned or sublet, except with the consent of the Secretary of the Interior. The lessee may, in the discretion of the Secretary of the Interior, be permitted at any time to make written relinquishment of all rights under such a lease, and upon acceptance thereof be thereby relieved of all future obligations under said lease, and may with like consent surrender any legal subdivision of the area included within the lease. Each lease shall contain provisions for the purpose of insuring the exercise of reasonable diligence, skill, and care in the operation of said property; a provision that such rules for the safety and welfare of the miners and for the prevention of undue waste as may be prescribed by said Secretary shall be observed, including a restriction of the workday to not exceeding eight hours in any one day for underground workers except in cases of emergency; provisions prohibiting the employment of any boy under the age of sixteen or the employment of any girl or woman, without regard to age, in any mine below the surface; provisions securing the workmen complete freedom of purchase; provision requiring the payment of wages at least twice a month in lawful money of the United States, and providing proper rules and regulations to insure the fair and just weighing or measurement of the coal mined by each miner, and such other provisions as he may deem necessary to insure the sale of the production of such leased lands to the United States and to the public at reasonable prices, for the protection of the interests of the United States, for the prevention of monopoly, and for the safeguarding of the public welfare: Provided, That none of such provisions shall be in conflict with the laws of the State in which the leased property is situated. (Act Feb. 25, 1920, c. 85, § 30.)

§ 4023pp. Forfeiture or cancellation of lease; settlement of disputes.—Any lease issued under the provisions of this Act may be forfeited and cancelled by an appropriate proceeding in the United States district court for the district in which the property, or some part thereof, is located whenever the lessee fails to comply with any of the provisions of this Act, of the lease, or of the general regulations promulgated under this Act and in force at the date of the lease; and the lease may provide for resort to appropriate methods for the settlement of disputes or for remedies for breach of specified conditions thereof. (Act Feb. 25, 1920, c. 85, § 31.)

§ 4023q. Regulations concerning leases; rights of states and local authorities.—The Secretary of the Interior is authorized to prescribe necessary and proper rules and regulations and to do any and all things necessary to carry out and accomplish the purposes of this Act, also to fix and determine the boundary lines of any structure, or oil or gas field, for the purposes of this Act: Provided, That nothing in this Act shall be construed or held to affect the rights of the States or other local authority to exercise any rights which they may have, including the right to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee of the United States. (Act Feb. 25, 1920, c. 85, § 32.)

§ 4023r. Statements and reports.—All statements, representations, or reports required by the Secretary of the Interior under this Act shall be upon oath, unless otherwise specified by him, and in such form and upon such blanks as the Secretary of the Interior may require. (Act Feb. 25, 1920, c. 85, § 33.)

§ 4023s. Application of Act to minerals reserved to United States.—The provisions of this Act shall also apply to all deposits of coal, phosphate, sodium, oil, oil shale, or gas in the lands of the United States, which lands may have been or may be disposed of under laws reserving to the United

States such deposits, with the right to prospect for, mine, and remove the same, subject to such conditions as are or may hereafter be provided by such laws reserving such deposits. (Act Feb. 25, 1920, c. 85, § 34.)

§ 4023t. Moneys under Act.—Ten per centum of all moneys received from sales, bonuses, royalties, and rentals under the provisions of this Act, excepting those from Alaska, shall be paid into the Treasury of the United States and credited to miscellaneous receipts; for past production 70 per centum, and for future production 52½ per centum of the amounts derived from such bonuses, royalties, and rentals shall be paid into, reserved, and appropriated as a part of the reclamation fund created by the Act of Congress, known as the Reclamation Act, approved June 17, 1902, and for past production 20 per centum, and for future production 37½ per centum of the amounts derived from such bonuses, royalties, and rentals shall be paid by the Secretary of the Treasury after the expiration of each fiscal year to the State within the boundaries of which the leased lands or deposits are or were located, said moneys to be used by such State or subdivisions thereof for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, as the legislature of the State may direct: Provided, That all moneys which may accrue to the United States under the provisions of this Act from lands within the naval petroleum reserves shall be deposited in the Treasury as "Miscellaneous receipts." (Act Feb. 25, 1920, c. 85, § 35.)

§ 4023u. Payment of royalty in oil or gas; sale of such minerals.—All royalty accruing to the United States under any oil or gas lease or permit under this Act on demand of the Secretary of the Interior shall be paid in oil or gas.

Upon granting any oil or gas lease under this Act, and from time to time thereafter during said lease, the Secretary of the Interior shall, except whenever in his judgment it is desirable to retain the same for the use of the United States, offer for sale for such period as he may determine, upon notice and advertisement on sealed bids or at public auction, all royalty oil and gas accruing or reserved to the United States under such lease. Such advertisement and sale shall reserve to the Secretary of the Interior the right to reject all bids whenever within his judgment the interest of the United States demands; and in cases where no satisfactory bid is received or where the accepted bidder fails to complete the purchase, or where the Secretary of the Interior shall determine that it is unwise in the public interest to accept the offer of the highest bidder, the Secretary of the Interior, within his discretion, may readvertise such royalty for sale, or sell at private sale at not less than the market price for such period, or accept the value thereof from the lessee: Provided, however, That pending the making of a permanent contract for the sale of any royalty, oil or gas as herein provided, the Secretary of the Interior may sell the current product at private sale, at not less than the market price: And provided further, That any royalty, oil, or gas may be sold at not less than the market price at private sale to any department or agency of the United States. (Act Feb. 25, 1920, c. 85, § 36.)

§ 4023v. Minerals to be disposed of under this Act only.—The deposits of coal, phosphate, sodium, oil, oil shale, and gas, herein referred to, in lands valuable for such minerals, including lands and deposits described in the joint resolution entitled "joint resolution authorizing the Secretary of the Interior to permit the continuation of coal mining operations on certain lands in Wyoming," approved August 1, 1912 (Thirty-seventh Statutes at Large, page 1346), shall be subject to disposition only in the form and manner provided in this Act, except as to valid claims existent at date of passage of this Act and thereafter maintained in compliance with the laws under which initiated, which claims may be perfected under such laws, including discovery. (Act Feb. 25, 1920, c. 85, § 37.)

§ 4023w. Fees of registers and receivers.—Until otherwise provided, the Secretary of the Interior shall be authorized to prescribe fees and commissions to be paid registers and receivers of United States land offices on account of business transacted under the provisions of this Act. (Act Feb. 25, 1920, c. 85, § 38.)

CHAPTER 7.

SALE AND DISPOSAL OF THE PUBLIC LANDS.

§ 4057. Survey and sale of abandoned military reservations.

Note.—The subdivision, appraisal and sale of Gig Harbor reservation, in Pierce county, Washington, is authorized by Act March 3, 1919, c. 108, lawful lessees of such lands or their heirs or assignees being given preference as to right to purchase the same.

§ 4075. Survey of lands within railroad grants.

Note.—By Act March 1, 1919, c. 86, § 1, the "use of the fund created by the Act of March 2, 1895 (28th Statutes, page 937), for office work in the surveyors general's offices is extended for one year from June 30, 1919: Provided, That not to exceed \$25,000 of this fund shall be used for the purposes above indicated."

§ 4095. Wagon-road grants in Oregon.

Note.—Act Feb. 26, 1919, c. 47, §§ 1-8, provides that, by reconveyance from the Southern Oregon Company, the Coos Bay Wagon Road Grant, in the counties of Coos and Douglas in the State of Oregon, shall again become a part of the public domain, and be classified and disposed of under existing laws applicable to railroad grant lands.

CHAPTER 11.

ARID AND SWAMP LANDS AND THEIR RECLAMATION.

§ 4210. Segregation lists in Oregon.

Note 1.—By Act March 3, 1919, c. 114, the Secretary of the Interior is "authorized, within his discretion, to continue to not beyond January twelfth, nineteen hundred and twenty-nine, the segregation of the lands embraced in approved Oregon segregation list numbered thirteen, under the Carey Act."

Note 2.—By Act June 1, 1920, c. 249, the Secretary of the Interior is "authorized within his discretion to continue to not beyond October 21, 1930, the segregation of the lands embraced in approved Oregon segregation list numbered eleven, under the Carey Act."

§ 4220a. Preference right of Carey Act entrymen to new entry under federal laws.—The Secretary of the Interior, when restoring to the public domain lands that have been segregated to a State under section 4 of the Act of August 18, 1894, and the Acts and resolutions amendatory thereof and supplemental thereto, commonly called the Carey Act, is authorized, in his discretion and under such rules and regulations as he may establish to allow for not exceeding ninety days to any Carey Act entryman a preference right of entry under applicable land laws of any such lands which such person had entered under and pursuant to the State laws providing for the administration of the grant under the Carey Act and upon which such person had established actual bona fide residence or had made substantial and permanent improvements: Provided, That each entryman shall be entitled to a credit as residence upon his new homestead entry allowed hereunder of the time that he has actually lived upon the claim as a bona fide resident thereof. (Act Feb. 14, 1920, c. 74, § 1.)

§ 4242a. Water supply from irrigation projects.—The Secretary of the Interior in connection with the operations under the reclamation law is hereby authorized to enter into contract to supply water from any project irrigation system for other purposes than irrigation, upon such conditions of delivery, use, and payment as he may deem proper: Provided, That the approval of such contract by the water users' association or associations shall have first been obtained: Provided, That no such contract shall be entered into except upon a showing that there is no other practicable source of water supply for the purpose: Provided, further, That no water shall be furnished for the uses aforesaid if the delivery of such water shall be detrimental to the water service for such irrigation project, nor to the rights of any prior appropriator: Provided, further, That the moneys derived from such contracts shall be covered into the reclamation fund and be placed to the credit of the project from which such water is supplied, (Act Feb. 25, 1920, c. 86.)

§ 4282a. Sale of lands withdrawn for reclamation projects.—Whenever in the opinion of the Secretary of the Interior any public lands which have been withdrawn for or in connection with construction or operation of reclamation projects under the provisions of the Act of June 17, 1902, known as the Reclamation Act and Acts amendatory thereof and supplemental thereto, which are not otherwise reserved and which have been improved by and at the expense of the reclamation fund for administration or other like purposes, are no longer needed for the purposes for which they were withdrawn and improved, the Secretary of the Interior may cause said lands, together with the improvements thereon, to be appraised by three disinterested persons to be appointed by him and thereafter sell the same, for not less than the appraised value, at public auction to the highest bidder, after giving public notice of the time and place of sale by posting upon the land and by publication for not less than thirty days in a newspaper of general circulation in the vicinity of the land, not less than one-fifth of the purchase price shall be paid at the time of sale, and the remainder in not more than four annual payments with interest at 6 per centum per annum, payable annually, on deferred payments.

Upon payment of the purchase price the Secretary of the Interior is authorized, by appropriate patent, to convey all the right, title, and interest of the United States in and to said lands to the purchaser at said sale, subject, however, to such reservations, limitations, or conditions as said Secretary may deem proper: Provided, That not over one hundred and sixty acres shall be sold to any one person, and if said lands are irrigable under the project in which located they shall be sold subject to compliance by the purchaser with all the terms, conditions, and limitations of the Reclamation Act applicable to lands of that character: Provided, That the accepted bidder must, prior to issuance of patent, furnish satisfactory evidence that he or she is a citizen of the United States.

The moneys derived from the sale of such lands shall be covered into the reclamation fund and be placed to the credit of the project for which such lands had been withdrawn. (Act May 20, 1920, c. 192, §§ 1-3.)

§ 4296. Drainage of public lands in Minnesota; sales.

Note.—Act March 3, 1919, c. 113, provides that "In all cases where Chippewa Indian lands in Minnesota, ceded under the Act of Congress approved January fourteenth, eighteen hundred and eighty-nine, were assessed under the State drainage laws prior to the opening of the lands to entry, where the lands were subsequently opened to entry and were thereafter sold under the said drainage laws, and where cash entries for the lands were subsequently made as though authorized by" this section, such erroneously allowed entries, if otherwise regular, are validated and confirmed.

§ 4296a. Patent for lands within reclamation projects, for school purposes.—The Secretary of the Interior be and he is hereby authorized, upon application by the proper officers of a school district located wholly or in part within the boundaries of a project of the United States Reclamation Service, to issue patent conveying to such district such unappropriated undisposed of lands, not exceeding six acres in area, within any Government reclamation town site situated within such school district as, in the opinion of the Secretary of the Interior, are necessary for use by said district for school buildings and grounds: Provided, That if any land so conveyed cease entirely to be used for school purposes title thereto shall revert to and revest in the United States. (Act Oct. 31, 1919, c. 92, § 1.)

CHAPTER 12.

MISCELLANEOUS PROVISIONS RELATING TO THE PUBLIC LANDS.

§ 4309a. Sale of Chippewa Indian lands.—The provisions of section twenty-four hundred and fifty-five of the Revised Statutes of the United States as amended by the Act of March twenty-eighth, nineteen hundred and twelve, relating to the sale of isolated tracts of the public domain, be and the same are hereby, extended and made applicable to ceded Chippewa Indian lands in the State of Minnesota: Provided, That the provisions of this Act shall not apply to lands which are not subject to homestead entry:

Provided further, That purchasers of land under this Act must pay for the lands not less than the price fixed in the law opening the lands to homestead entry. (Act Feb. 4, 1919, c. 13.)

§ 4321. For what purposes timber may be cut in certain states.

Note.—This section, by Acts March 3, 1919, cc. 111 and 115, is so amended as to authorize the Secretary of the Interior to permit the cutting and removal by citizens of Malheur county, Oregon, of timber in Idaho, and by citizens of Modoc county, California, of timber in Nevada, for agricultural, mining or other domestic purposes.

CHAPTER 13.

PUBLIC LANDS IN ALASKA.

§ 4381. Extension of mining laws to Alaska.

Note.—Res. Feb. 28, 1919, c. 85, provides that "the provisions of public resolution numbered ten, Sixty-fifth Congress, approved July seventeen, nineteen hundred and seventeen, and the provisions of public resolution numbered twelve, Sixty-fifth Congress, approved October fifth, nineteen hundred and seventeen, and amendments thereto, be, and they are hereby, extended to the Territory of Alaska. The laws requiring assessment work to be made upon mining claims in the Territory of Alaska for the years nineteen hundred and seventeen, nineteen hundred and eighteen, and nineteen hundred and nineteen, are hereby suspended for such period; and no forfeiture or relocation of any mining claim or mining location in said Territory shall be permitted or adjudged for failure to do or have done the annual assessment work thereon for either of said years; and no mining claim or location therein shall be held to be forfeited or subject to relocation for any failure to have done the annual assessment work thereon where the owner or anyone for him complied with the provisions of public resolution numbered ten, Sixty-fifth Congress, approved July seventeenth, nineteen hundred and seventeen, or public resolution numbered twelve, Sixty-fifth Congress, approved October fifth, nineteen hundred and seventeen, and amendments thereto." See also Barnes' Federal Code, § 3976 and note thereto.

§ 4423. Land districts and offices in Alaska.

Note.—Act July 19, 1919, c. 24, § 1, provides that "the President is authorized to consolidate the offices of register and receiver at Juneau, Alaska, and to appoint, by and with the advice and consent of the Senate, a register for said office. All the powers, duties, obligations, and penalties imposed by law upon both the register and receiver of said office shall be exercised by and imposed upon the register, whose compensation shall be a salary of \$3,000 per annum; and all fees and commissions collected by said register, when earned, shall be paid into the Treasury without abatement or deduction."

CHAPTER 15.

THE NATIONAL PARKS AND RESERVATIONS.

§ 4524. Rocky Mountain National Park.

Note.—The last proviso of this section—that "no appropriation for the maintenance, supervision, or improvement of said park in excess of \$10,000 annually shall be made unless the same shall have first been expressly authorized by law"—is repealed by Act March 1, 1919, c. 88.

§ 4527a. Grand Canyon National Park.—There is hereby reserved and withdrawn from settlement, occupancy, or disposal under the laws of the United States and dedicated and set apart as a public park for the benefit and enjoyment of the people, under the name of the "Grand Canyon National Park," the tract of land in the State of Arizona particularly described by and included within metes and bounds as follows, to wit: Beginning at a point which is the northeast corner of township thirty north, range one east, of the Gila and Salt River meridian, Arizona; thence west on township line between townships thirty and thirty-one north, range one east, to section corner common to sections one and two, township thirty north, range one east, and thirty-five and thirty-six, township thirty-one north, range one east; thence north on section lines to the intersection with Tobocobya Spring-Rowe Well Road; thence northwesterly along the southwesterly side of said Tobocobya Spring-Rowe Well Road, passing and in relation to United States Geological Survey bench marks stamped "Canyon" and numbered 6340, 6235, 6372, 6412, 6302, 6144, and 6129, through townships thirty-one and thirty-two north, ranges one east and one and two west, to its intersection with the section line between sections nine and sixteen in township thirty-two north, range two west; thence west along

the section lines through townships thirty-two north, ranges two and three west, to its intersection with upper westerly rim of Cataract Canyon; thence northwesterly along upper rim of Cataract Canyon crossing Hualapai Canyon and continuing northwesterly along said upper rim to its intersection with range line, township thirty-three north, between ranges four and five west; thence north on said range line, townships thirty-three and thirty-four north, ranges four and five west, to north bank of the Colorado River; thence northeasterly along the north bank of the Colorado River to junction with Tapeats Creek; then easterly along north bank of Tapeats Creek to junction with Spring Creek; thence easterly along the north bank of Spring Creek to its intersection with Gila and Salt River meridian, township thirty-four north, between ranges one east and one west and between section six, township thirty-four north, range one east, and section one, township thirty-four north, range one west; thence south on range line between ranges one east and one west to section corner common to section seven and eighteen, township thirty-four north, range one east, and sections twelve and thirteen, township thirty-four north, range one west; thence east on section lines to section corner common to sections seven, eight, seventeen, and eighteen, township thirty-four north, range two east; thence south on section lines to township line between townships thirty-three and thirty-four north, range two east, at section corner common to sections thirty-one and thirty-two, township thirty-four north, range two east, and sections five and six, township thirty-three north, range two east; thence east on township line to section corner common to sections thirty-one and thirty-two, township thirty-four north, range three east, and sections five and six, township thirty-three north, range three east; thence south on section lines to section corner common to sections seventeen, eighteen, nineteen, and twenty, township thirty-three north, range three east; thence east on section lines to section corner common to sections thirteen, fourteen, twenty-three, and twenty-four, township thirty-three north, range three east; thence north on section lines to section corner common to sections one, two, eleven, and twelve, township thirty-three north, range three east; thence east on section lines to the intersection with upper rim of Grand Canyon; thence northerly along said upper rim of Grand Canyon to main hydrographic divide north of Nankoweap Creek; thence easterly along the said hydrographic divide to its intersection with the Colorado River, approximately at the mouth of Nankoweap Creek; thence easterly across the Colorado River and up the hydrographic divide nearest the junction of Nankoweap Creek and Colorado River to a point on the upper east rim of the Grand Canyon; thence by shortest route to an intersection with range line, townships thirty-three and thirty-four north, between ranges five and six east; thence south on said range line, between ranges five and six east, to section corner common to sections eighteen and nineteen, township thirty-three north, range six east, and sections thirteen and twenty-four, township thirty-three north, range five east; thence east on section lines to section corner common to sections sixteen, seventeen, twenty, and twenty-one, township thirty-three north, range six east; thence south on section lines to section corner common to sections eight, nine, sixteen, and seventeen, township thirty-one north, range six east; thence west on section line to section corner common to sections seven, eight, seventeen, and eighteen, township thirty-one north, range six east; then south on section lines to township line between townships thirty and thirty-one north at section corner common to sections thirty-one and thirty-two, township thirty-one north, range six east, and sections five and six, township thirty north, range six east; thence west on township line to section corner common to sections thirty-four and thirty-five, township thirty-one north, range five east, and sections two and three, township thirty north, range five east; thence south on section line to section corner common to sections two, three, ten, and eleven, township thirty north, range five east; thence west on section lines to range line, township thirty north, between ranges four and five east, at section corner common to sections six and seven, township thirty north, range five east, and one and twelve, township thirty north, range four east; thence south on range line, township thirty north, between ranges four and five east, to section corner common to sections seven and eighteen, township thirty north, range five east, and sections twelve and thirteen, township thirty north, range four east; thence west on section line to section corner com-

mon to sections eleven, twelve, thirteen, and fourteen, township thirty north, range four east; thence south on section line to section corner common to sections thirteen, fourteen, twenty-three, and twenty-four, township thirty north, range four east; thence west on section lines to section corner common to sections fifteen, sixteen, twenty-one, and twenty-two, township thirty north, range four east; thence south on section line to section corner common to sections twenty-one, twenty-two, twenty-seven, and twenty-eight; township thirty north, range four east; thence west on section lines to range line, township thirty north, between ranges three and four east, at section corner common to sections nineteen and thirty, township thirty north, range four east, and sections twenty-four and twenty-five, township thirty north, range three east; thence north on range line to section corner common to sections eighteen and nineteen, township thirty north, range four east, and sections thirteen and twenty-four, township thirty north, range three east; thence west on section lines to section corner common to sections fourteen, fifteen, twenty-two, and twenty-three, township thirty north, range three east; thence north on section line to section corner common to sections ten, eleven, fourteen, and fifteen, township thirty north, range three east; thence west on section lines to range line at section corner common to sections seven and eighteen, township thirty north, range three east, and sections twelve and thirteen, township thirty north, range two east; thence north on range line to section corner common to sections six and seven, township thirty north, range three east, and sections one and twelve, township thirty north, range two east; thence west on section line to section corner common to sections one, two, eleven, and twelve, township thirty north, range two east; thence north on section line to township line at section corner common to sections thirty-five and thirty-six, township thirty-one north, range two east, and sections one and two, township thirty north, range two east; thence west on township line to the northeast corner of township thirty north, range one east, the place of beginning.

The administration, protection, and promotion of said Grand Canyon National Park shall be exercised, under the direction of the Secretary of the Interior, by the National Park Service, subject to the provisions of the Act of August twenty-fifth, nineteen hundred and sixteen, entitled "An Act to establish a National Park Service and for other purposes": Provided, That all concessions for hotels, camps, transportation, and other privileges of every kind and nature for the accommodation or entertainment of visitors shall be let at public bidding to the best and most responsible bidder.

Nothing herein contained shall affect the rights of the Havasupai Tribe of Indians to the use and occupancy of the bottom lands of the Canyon of Cataract Creek as described in the Executive order of March thirty-first, eighteen hundred and eighty-two, and the Secretary of the Interior is hereby authorized, in his discretion, to permit individual members of said tribe to use and occupy other tracts of land within said park for agricultural purposes.

Nothing herein contained shall affect any valid existing claim, location, or entry under the land laws of the United States, whether for homestead, mineral, right of way, or any other purpose whatsoever, or shall affect the rights of any such claimant, locator, or entryman to the full use and enjoyment of his land and nothing herein contained shall affect, diminish, or impair the right and authority of the county of Coconino, in the State of Arizona, to levy and collect tolls for the passage of live stock over and upon the Bright Angel Toll Road and Trail, and the Secretary of the Interior is hereby authorized to negotiate with the said county of Coconino for the purchase of said Bright Angel Toll Road and Trail and all rights therein, and report to Congress at as early a date as possible the terms upon which the property can be procured.

Whenever consistent with the primary purposes of said park the Act of February fifteenth, nineteen hundred and one, applicable to the locations of rights of way in certain national parks and the national forests for irrigation and other purposes, and subsequent Acts shall be and remain applicable to the lands included within the park. The Secretary of the Interior may, in his discretion and upon such conditions as he may deem proper, grant easements or rights of way for railroads upon or across the park.

Whenever consistent with the primary purposes of said park, the Secretary of the Interior is authorized, under general regulations to be prescribed by him, to permit the prospecting, development, and utilization of the mineral resources of said park upon such terms and for specified periods, or otherwise, as he may deem to be for the best interests of the United States.

Whenever consistent with the primary purposes of said park, the Secretary of the Interior is authorized to permit the utilization of areas therein which may be necessary for the development and maintenance of a Government reclamation project.

Where privately owned lands within the said park lie within three hundred feet of the rim of the Grand Canyon no building, tent, fence or other structure shall be erected on the park lands lying between said privately owned lands and the rim.

The Executive order of January eleventh, nineteen hundred and eight, creating the Grand Canyon National Monument, is hereby revoked and repealed, and such parts of the Grand Canyon National Game Preserve, designated under authority of the Act of Congress, approved June twenty-ninth, nineteen hundred and six, entitled "An Act for the protection of wild animals in the Grand Canyon Forest Reserve," as are by this Act included with the Grand Canyon National Park are hereby excluded and eliminated from said game preserve. (Act Feb. 26, 1919, c. 44, §§ 1-9.)

§ 4527b. Lafayette National Park.—The tracts of land, easements, and other real estate heretofore known as the Sieur de Monts National Monument, situated on Mount Desert Island, in the county of Hancock and State of Maine, established and designated as a national monument under the Act of June eighth, nineteen hundred and six, entitled "An Act for the preservation of American antiquities," by presidential proclamation of July eighth, nineteen hundred and sixteen, is hereby declared to be a national park and dedicated as a public park for the benefit and enjoyment of the people under the name of the Lafayette National Park, under which name the aforesaid national park shall be entitled to receive and to use all moneys heretofore or hereafter appropriated for Sieur de Monts National Monument.

The administration, protection, and promotion of said Lafayette National Park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provision of the Act of August twenty-fifth, nineteen hundred and sixteen, entitled "An Act to establish a National Park Service, and for other purposes," and Act additional thereto or amendatory thereof.

The Secretary of the Interior is hereby authorized, in his discretion, to accept in behalf of the United States such other property on said Mount Desert Island, including lands, easements, buildings, and moneys, as may be donated for the extension or improvement of said park. (Act Feb. 26, 1919, c. 45, §§ 1-3.)

§ 4527c. Zion National Park.—The Zion National Monument, in the county of Washington, State of Utah, established and designated as a national monument under the Act of June 8, 1906, entitled "An Act for the preservation of American antiquities," by presidential proclamations of July 31, 1909, and March 18, 1918, is hereby declared to be a national park and dedicated as such for the benefit and enjoyment of the people, under the name of the Zion National Park, under which name the aforesaid national park shall be maintained by allotment of funds heretofore or hereafter appropriated for the national monuments, until such time as an independent appropriation is made therefor by Congress.

The administration, protection, and promotion of said Zion National Park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provision of the Act of August 25, 1916, entitled "An Act to establish a National Park Service, and for other purposes," and Acts additional thereto or amendatory thereof. (Act Nov. 19, 1919, c. 110, §§ 1, 2.)

§ 4529a. Yosemite, Sequoia, and General Grant National Park; cession of lands by California; miscellaneous provisions.—The provisions of the Act of the Legislature of the State of California (approved April 15, 1919) ceding to the United States exclusive jurisdiction over the territory

embraced and included within the Yosemite National Park, Sequoia National Park, and General Grant National Park, respectively, are hereby accepted and sole and exclusive jurisdiction is hereby assumed by the United States over such territory, saving, however, to the said State of California the right to serve civil or criminal process within the limits of the aforesaid parks or either of them in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed in said State outside of said parks; and saving further to the said State the right to tax persons and corporations, their franchises and property on the lands included in said parks, and the right to fix and collect license fees for fishing in said parks; and saving also to the persons residing in any of said parks now or hereafter the right to vote at all elections held within the county or counties in which said parks are situated. All the laws applicable to places under sole and exclusive jurisdiction of the United States shall have force and effect in said parks or either of them. All fugitives from justice taking refuge in said parks, or either of them, shall be subject to the same laws as refugees from justice found in the State of California.

Said Yosemite National Park shall constitute a part of the United States judicial district for the northern district of California, and the district court shall have jurisdiction of all offenses committed within said boundaries of the Yosemite National Park.

Said Sequoia National Park and General Grant National Park shall constitute part of the United States judicial district for the southern district of California, and the district court of the United States in and for said southern district shall have jurisdiction of all offenses committed within the boundaries of said Sequoia National Park and General Grant National Park.

If any offense shall be committed in the Yosemite National Park, Sequoia National Park, General Grant National Park, or either of them, which offense is not prohibited or the punishment is not specifically provided for by any law of the United States, the offender shall be subject to the same punishment as the laws of the State of California in force at the time of the commission of the offense may provide for a like offense in said State; and no subsequent repeal of any such law of the State of California shall affect any prosecution for said offense committed within said parks or either of them.

All hunting or the killing, wounding, or capturing at any time of any wild bird or animal, except dangerous animals, when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited within the limits of said parks; or shall any fish be taken out of any of the waters of the said parks, or either of them, in any other way than by hook and line, and then only at such seasons and such times and manner as may be directed by the Secretary of the Interior. That the Secretary of the Interior shall make and publish such general rules and regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of all timber, mineral deposits other than those legally located prior to the passage of the respective Acts creating and establishing said parks, natural curiosities or wonderful objects within said parks, and for the protection of the animals in the park from capture or destruction, and to prevent their being frightened or driven from the said parks; and he shall make rules and regulations governing the taking of fish from the streams or lakes in the said parks or either of them. Possession within said parks, or either of them, of the dead bodies or any part thereof of any wild bird or animal shall be prima facie evidence that person or persons having same are guilty of violating this Act. Any person or persons, or stage or express company, or railway company, who knows or has reason to believe that they were taken or killed contrary to the provisions of this Act, and who receives for transportation any of such animals, birds, or fish so killed, caught, or taken, or who shall violate any of the other provisions of this Act, or any rule or regulation that may be promulgated by the Secretary of the Interior, with reference to the management and care of the said parks, or either of them, or for the protection of the property therein for the preservation from injury or

spoliation of timber, mineral deposits, other than those legally located prior to the passage of the respective Acts creating and establishing said parks, natural curiosities, or wonderful objects within said parks, or either of them, or for the protection of the animals, birds, or fish in the said parks, or either of them, or who shall within said parks commit any damage, injury, spoliation to or upon any building, fence, hedge, gate, guide post, tree, wood, underwood, timber, garden, crops, vegetables, plants, land, springs, mineral deposits other than those legally located prior to the passage of the respective Acts creating and establishing said parks, natural curiosities, or other matter or thing growing or being thereon, or situated therein, shall be subject to the penalty provided for the violation of rules and regulations of the Secretary of the Interior authorized by section 3 of the Act of Congress approved August 25, 1916 (Thirty-ninth Statutes, page 535), entitled "An Act to establish a National Park Service, and for other purposes," which section is hereby amended by striking therefrom the words "and any violations of any of the rules and regulations authorized by this Act shall be punished as provided for in section 50 of the Act entitled 'An Act to codify and amend the Penal Laws of the United States,' approved March 4, 1909, as amended by section 6 of the Act of June 25, 1910 (Thirty-sixth United States Statutes at Large, page 857)," and inserting in lieu thereof the words "and any violation of any of the rules and regulations authorized by this Act shall be punished by a fine of not more than \$500 or imprisonment for not exceeding six months, or both, and be adjudged to pay all costs of the proceedings": Provided, That nothing herein shall be construed as repealing or in any way modifying the authority granted the Secretary of the Interior by said section 3 of the said Act approved August 25, 1916, to sell or dispose of timber in national parks in those cases where, in his judgment, the cutting of such timber is required in order to control the attacks of insects or diseases or otherwise conserve the scenery of the natural or history objects in such parks and to provide for the destruction of such animals and such plant life as may be detrimental to the use of any of said parks, or the authority granted to said Secretary by the Act approved April 9, 1912, entitled "An Act to authorize the Secretary of the Interior to secure for the United States title to patented lands in the Yosemite National Park, and for other purposes," as amended by the Act approved April 16, 1914.

All guns, traps, teams, horses, or means of transportation of every nature or description used by any person or persons within the limits of said parks, or either of them, when engaged in killing, trapping, ensnaring, or capturing such wild beasts, birds, or animals, shall be forfeited to the United States and may be seized by the officers in said parks, or either of them, and held pending prosecution of any person or persons arrested under the charge of violating the provisions of this Act, and upon conviction such forfeiture shall be adjudicated as a penalty in addition to the other punishment prescribed in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior.

The United States District Court for the Northern District of California shall appoint a commissioner for the Yosemite National Park, who shall reside in said park, and who shall have jurisdiction to hear and act upon all complaints made of any violations of law, or of the rules and regulations made by the Secretary of the Interior, for the government of said Yosemite National Park, and for the protection of the animals, birds, and fish, and objects of interest therein, and for other purposes authorized by this Act. Such commissioner shall have power, upon sworn information, to issue process in the name of the United States for the arrest of any person charged with the commission of any misdemeanor, or charged with a violation of the rules and regulations, or with a violation of any of the provisions of this Act prescribed for the government of said Yosemite National Park, and for the protection of the animals, birds, and fish in said park, and try persons so charged, and if found guilty impose punishment and to adjudge forfeiture prescribed. In all cases of conviction on appeal shall lie from the judgment of said commissioner to the United States court for the Northern District of California, and the United States district court in said district shall prescribe rules and procedure and practice for said commissioner in the trial of cases and for appeals to United States district court.

The United States district court for the Southern District of California shall appoint a commissioner for the Sequoia National Park and the General Grant National Park, who shall reside in one of said parks, and who shall have jurisdiction to hear and act upon all complaints made of any violations of the law or of the rules and regulations made by the Secretary of the Interior, for the government of the Sequoia National Park and the General Grant National Park, and for the protection of the animals, birds, and fish, and objects of interest therein, and for other purposes authorized by this Act. Such commissioner shall have power, upon sworn information, to issue process in the name of the United States for the arrest of any person charged with the commission of any misdemeanor, or charged with a violation of the rules and regulations, or with a violation of any of the provisions of this Act prescribed for the government of said Sequoia National Park and General Grant National Park, or either of them, and for the protection of the animals, birds, and fish in said last-named parks, or either of them, and try persons so charged, and, if found guilty, impose punishment and to adjudge forfeiture prescribed. In all cases of conviction an appeal shall lie from the judgment of said commissioner to the United States Court for the Southern District of California, and the United States district court in said district shall prescribe rules and procedure and practice for said commissioner in the trial of cases and for appeals to said United States district court.

Any such commissioner within his jurisdiction shall also have the power to issue process as hereinbefore provided for the arrest of any person charged with commission within said boundaries of said parks, or either of them, as specified above in this Act, of any criminal offense not covered by the provisions of section 5 of this Act, to hear the evidence introduced, and if he is of the opinion that probable cause is shown for holding the persons so charged for trial, he shall cause such person to be safely conveyed to a secure place of confinement within the jurisdiction of the United States district court in and for the judicial district to which he belongs, and certify a transcript of the record of his proceedings and testimony in the case to the court, to which the park is attached as above specified in this Act, which court shall have jurisdiction of the case: Provided, That the said commissioner shall grant bail in all cases bailable under the laws of the United States or of said State.

Note.—§ 5 is now § 4529a.

All process issued by the commissioner of the Yosemite National Park shall be directed to the marshal of the United States for the northern district of California, and all process issued by the commissioner of the Sequoia National Park and the General Grant National Park shall be directed to the marshal of the United States for the southern district of California, but nothing herein contained shall be so construed to prevent the arrest by any officer or employee of the Government or any person employed by the United States, in the policing of such reservation within the boundaries of said parks, or either of them, without process of any person taken in the act of violating the law or this Act or the regulation prescribed by said Secretary as aforesaid.

The commissioner provided for in this Act for the Yosemite National Park and the commissioner provided for in this Act for the Sequoia National Park and the General Grant National Park each shall be paid an annual salary of \$1,500, payable monthly: Provided, That the said commissioner for the Yosemite National Park shall reside within the exterior boundaries of said Yosemite National Park, and the commissioner provided for the Sequoia National Park and the General Grant National Park shall reside within the exterior boundaries of one of the said last-named national parks and at a place to be designated by the court making such appointment: And provided further, That all fees, costs, and expenses collected by the commissioner shall be disposed of as provided in section 13 of this Act.

All fees, costs, and expenses arising in cases under this Act and properly chargeable to the United States shall be certified, approved, and paid as are like fees, costs, and expenses in the courts of the United States.

All fines and costs imposed and collected shall be deposited by said commissioners of the United States, or the marshal of the United States collecting the same, with the clerk of the United States district court to which said parks are attached, as provided in this Act.

The Secretary of the Interior shall notify in writing the governor of the State of California of the passage and approval of this Act and of the fact that the United States assumes police jurisdiction over said parks, as specified in said Act. (Act June 2, 1920, c. 218, §§ 1-14.)

Note.—§ 13 is now § 4529a.

TITLE XXXV.

DUTIES UPON IMPORTS.

CHAPTER 1.

TARIFF SCHEDULES AND TARIFF COMMISSION.

§ 451a. Temporary modification of paragraphs 322 and 567 of schedule M.—Section 600 of the Act approved September 8, 1916, entitled "An Act to increase the revenue, and for other purposes," be amended so as to read as follows:

"Sec. 600. That paragraph 322, schedule M, and paragraph 567 of the free list of the Act entitled 'An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes,' approved October 3, 1913, be amended so that the same shall read as follows:

"322. Printing paper (other than paper commercially known as handmade or machine handmade, japan paper, and imitation japan paper by whatever name known), unsized, sized, or glued, suitable for the printing of books and newspapers, but not for covers or bindings, not specially provided for in this section, valued above 8 cents per pound, 12 per centum ad valorem: Provided, however, That if any country, dependency, Province, or other subdivision of government shall impose any export duty, export license fee, or other charge of any kind whatsoever (whether in the form of additional charge or license fee or otherwise) upon printing paper, wood pulp, or wood for use in the manufacture of wood pulp, there shall be imposed upon printing paper, value above 8 cents per pound, when imported either directly or indirectly from such country, dependency, Province, or other subdivision of government, an additional duty equal to the amount of the highest export duty or other export charge imposed by such country, dependency, Province, or other subdivision of government, upon either printing paper or upon an amount of wood pulp or wood for use in the manufacture of wood pulp necessary to manufacture such printing paper.

"567. Printing paper (other than paper commercially known as handmade or machine handmade paper, japan paper, and imitation japan paper by whatever name known), unsized, sized, or glued, suitable for printing of books and newspapers, but not for covers or bindings, not especially provided for in this section, valued at not above 8 cents per pound, decalomania paper not printed."

This Act shall expire by limitation at the end of two years from the date of its passage, and section 600 of the Act approved September 8, 1916, entitled "An Act to increase the revenue, and for other purposes," as in effect prior to the passage of this Act, shall again become operative in its stead. (Act April 23, 1920, c. 158, §§ 1, 2.)

Note.—Section 4541 is unaffected by the Act of 1920 cited except as here provided.

§ 4545. Tariff Commission.

Note.—Act July 19, 1919, c. 24, § 1, provides that "the disbursing clerk of the Treasury Department shall act in a similar capacity for the United States Tariff Commission."

CHAPTER 5.

UNLOADING.

§ 4752. Compensation of officers for overtime; boarding officers; port working hours.—The Secretary of the Treasury shall fix a reasonable rate of extra compensation for overtime services of inspectors, storekeepers,

weighers, and other customs officers and employees who may be required to remain on duty between the hours of five o'clock postmeridian and eight o'clock antemeridian, or on Sundays or holidays, to perform services in connection with the lading or unlading of cargo, or the lading of cargo or merchandise for transportation in bond or for exportation in bond or for exportation with benefit of drawback, or in connection with the receiving or delivery of cargo on or from the wharf, or in connection with the unlading, receiving, or examination of passengers' baggage, such rates to be fixed on the basis of one-half day's additional pay for each two hours or fraction thereof of at least one hour that the overtime extends beyond five o'clock postmeridian (but not to exceed two and one-half days' pay for the full period from five o'clock postmeridian to eight o'clock antemeridian), and two additional days' pay for Sunday or holiday duty. The said extra compensation shall be paid by the master, owner, agent, or consignee of such vessel or other conveyance whenever such special license or permit for immediate lading or unlading or for lading or unlading at night or on Sundays or holidays shall be granted to the collector of customs, who shall pay the same to the several customs officers and employees entitled thereto according to the rates fixed therefor by the Secretary of the Treasury: Provided, That such extra compensation shall be paid if such officers or employees have been ordered to report for duty and have so reported, whether the actual lading, unlading, receiving, delivery, or examination takes place or not. Customs officers acting as boarding officers and any customs officer who may be designated for that purpose by the collector of customs are hereby authorized to administer the oath or affirmation herein provided for, and such boarding officers shall be allowed extra compensation for services in boarding vessels at night or on Sundays or holidays at the rates prescribed by the Secretary of the Treasury as herein provided, the said extra compensation to be paid by the master; owner, agent, or consignee of such vessel: Provided further, That in those ports where customary working hours are other than those hereinabove mentioned, the Collector of Customs is vested with authority to regulate the hours of customs employees so as to agree with prevailing working hours in said ports but nothing contained in this proviso shall be construed in any manner to affect or alter the length of a working day for customs employees or the overtime pay herein fixed. (Acts Feb. 13, 1911, c. 46, § 5, 36 Stat. 901; Feb. 7, 1920, c. 61.)

CHAPTER 7.

THE BOND AND WAREHOUSE SYSTEM.

§ 4869a. **Extension of privilege of immediate transportation.**—The privileges of the first and seventh sections of the Act approved June tenth, eighteen hundred and eighty, governing the immediate transportation of dutiable merchandise without appraisement be, and are hereby extended to the port of Gulfport, Mississippi. (Act March 2, 1919, c. 93.)

Note.—See Barnes' Federal Code, §§ 4868, 4875, for the statute so referred to.

TITLE XXXVI.

INTERNAL REVENUE.

CHAPTER 1.

OFFICERS OF INTERNAL REVENUE.

§ 5054. Repealed by § 5634a.

§ 5060. **Duty of collectors to report violations of law to district attorney.**—It shall be the duty of every collector of internal revenue having knowledge of any willful violation of any law of the United States relating to the revenue, within thirty days after coming into possession of such knowl-

edge, to file with the district attorney of the district in which any fine, penalty, or forfeiture may be incurred, a statement of all the facts and circumstances of the case within his knowledge, together with the names of the witnesses, setting forth the provisions of law believed to be so violated on which reliance may be had for condemnation or conviction. (R. S. § 3164; Acts March 3, 1873, c. 244, 17 Stat. 580; Feb. 24, 1919, c. 18, § 1317.)

§ 5061. Revenue officers who may administer oaths and take evidence.—Every collector, deputy collector, internal-revenue agent, and internal-revenue officer assigned to duty under an internal-revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal-revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken. (R. S. § 3165; Acts June 30, 1864, c. 173, § 52, 13 Stat. 242; March 3, 1865, c. 78, § 1, 13 Stat. 471; March 1, 1879, c. 125, § 2, 20 Stat. 329; Feb. 24, 1919, c. 18, § 1317.)

§ 5063. Revenue officers disclosing operations of manufacturers.—It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return, or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and if the offender be an officer or employee of the United States he shall be dismissed from office or discharged from employment. (R. S. § 3167; Acts June 30, 1864, c. 173, §§ 36, 38, 13 Stat. 238; March 3, 1865, c. 78, § 1, 13 Stat. 471; Aug. 27, 1894, c. 349, § 34, 28 Stat. 557; Oct. 3, 1913, c. 16, §§ II, I, 38 Stat. 177; Sept. 8, 1916, c. 463, § 16, 39 Stat. 773; Feb. 24, 1919, c. 18, § 1317.)

CHAPTER 2.

ASSESSMENTS AND COLLECTIONS.

§ 5071. Canvass of district for objects of taxation.—Every collector shall, from time to time, cause his deputies to proceed through every part of his district and inquire after and concerning all persons therein who are liable to pay any internal-revenue tax, and all persons owning or having the care and management of any objects liable to pay any tax, and to make a list of such persons and enumerate said objects. (R. S. § 3172; Acts June 30, 1864, c. 173, § 12, 13 Stat. 225; March 2, 1867, c. 169, § 1, 14 Stat. 471; Dec. 24, 1872, c. 13, § 1, 17 Stat. 401; Aug. 27, 1894, c. 349, § 34, 28 Stat. 558; Oct. 3, 1913, c. 16, §§ II, I, 38 Stat. 178; Sept. 8, 1916, c. 463, § 16, 39 Stat. 773; Feb. 24, 1919, c. 18, § 1317.)

§ 5072. Annual returns by persons liable to tax.—It shall be the duty of any person, partnership, firm, association, or corporation, made liable to any duty, special tax, or other tax imposed by law, when not otherwise provided for, (1) in case of a special tax, on or before the thirty-first day of July in each year, and (2) in other cases before the day on which the taxes accrue, to make a list or return, verified by oath, to the collector or a deputy collector of the district where located, of the articles or objects, including the quantity of goods, wares, and merchandise, made or sold and charged with a tax, the several rates and aggregate amount, according to the forms and regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

for which such person, partnership, firm, association, or corporation is liable: Provided, That if any person liable to pay any duty or tax, or owning, possessing, or having the care or management of property, goods, wares, and merchandise, article or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles, and objects liable to pay any duty or tax, or any business or occupation liable to pay any tax as aforesaid, then, and in that case, it shall be the duty of the collector or deputy collector to make such list or return, which, being distinctly read, consented to, and signed and verified by oath by the person so owning, possessing, or having the care and management as aforesaid, may be received as the list of such person: Provided further, That in case no annual list or return has been rendered by such person to the collector or deputy collector as required by law, and the person shall be absent from his or her residence or place of business at the time the collector or a deputy collector shall call for the annual list or return, it shall be the duty of such collector or deputy collector to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum addressed to such person, requiring him or her to render to such collector or deputy collector the list or return required by law within ten days from the date of such note or memorandum, verified by oath. And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such list or return within the time required as aforesaid, or whenever any person who is required to deliver a monthly or other return of objects subject to tax fails to do so at the time required, or delivers any return which, in the opinion of the collector, is erroneous, false, or fraudulent, or contains any undervaluation or understatement, or refuses to allow any regularly authorized Government officer to examine the books of such person, firm, or corporation, it shall be lawful for the collector to summon such person, or any other person having possession, custody, or care of books of account containing entries relating to the business of such person or any other person he may deem proper, to appear before him and produce such books at a time and place named in the summons, and to give testimony or answer interrogatories, under oath, respecting any objects or income liable to tax or the returns thereof. The collector may summon any person residing or found within the State or Territory in which his district lies; and when the person intended to be summoned does not reside and can not be found within such State or Territory, he may enter any collection district where such person may be found and there make the examination herein authorized. And to this end he may there exercise all the authority which he might lawfully exercise in the district for which he was commissioned: Provided, That "person," as used in this section, shall be construed to include any corporation, joint-stock company or association, or insurance company when such construction is necessary to carry out its provisions. (R. S. § 3173; Acts June 30, 1864, c. 173, §§ 11, 13, 13 Stat. 225, 226; July 13, 1866, c. 184, § 9, 14 Stat. 101; March 2, 1867, c. 169, § 1, 14 Stat. 471; Dec. 24, 1872, c. 13, § 1, 17 Stat. 401; March 1, 1879, c. 125, § 3, 20 Stat. 330; Aug. 27, 1894, c. 349, § 34, 28 Stat. 558; Oct. 3, 1913, c. 16, §§ II, I, 38 Stat. 178; Sept. 8, 1916, c. 463, § 16, 39 Stat. 774; Feb. 24, 1919, c. 18, § 1317.)

§ 5075. Time for returns; assessment.—If any person, corporation, company, or association fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise. In any such case the Commissioner may, from his own knowledge and from such information as he can obtain through testimony or otherwise, make a return or amend any return made by a collector or deputy collector. Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

If the failure to file a return or list is due to sickness or absence, the collector may allow such further time, not exceeding thirty days, for making and filing the return or list as he deems proper.

The Commissioner of Internal Revenue shall determine and assess all taxes, other than stamp taxes, as to which returns or lists are so made under the provisions of this section. In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner of Internal Revenue or the collector in pursuance of law, the Commissioner of Internal Revenue shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner of Internal Revenue shall add to the tax 50 per centum of its amount.

The amount so added to any tax shall be collected at the same time and in the same manner and as part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax. (R. S. § 3176; Acts June 30, 1864, c. 173, § 14, 13 Stat. 226; July 13, 1866, c. 184, § 9, 14 Stat. 101; Dec. 24, 1872, c. 13, § 2, 17 Stat. 402; March 1, 1879, c. 125, § 3, 20 Stat. 331; Aug. 27, 1894, c. 349, § 34, 28 Stat. 559; Oct. 3, 1913, c. 16, §§ II, I, 38 Stat. 179; Sept. 8, 1916, c. 463, § 16, 39 Stat. 775; Feb. 24, 1919, c. 18, § 1317.)

§ 5120. Refundment of moneys.—The Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected; also to repay to any collector or deputy collector the full amount of such sums of money as may be recovered against him in any court, for any internal revenue taxes collected by him, with the cost and expenses of suit; also all damages and costs, recovered against any assessor, assistant assessor, collector, deputy collector, agent, or inspector, in any suit brought against him by reason of anything done in the due performance of his official duty, and shall make report to Congress at the beginning of each regular session of Congress of all transactions under this section. (R. S. § 3220; Acts July 13, 1866, c. 184, § 9, 14 Stat. 111; Dec. 24, 1872, c. 13, § 1, 17 Stat. 401; Feb. 24, 1919, c. 18, § 1316.)

§ 5124. Suit to recover taxes collected under second assessment; burden of proof as to fraud.—When a second assessment is made in case of any list, statement, or return, which in the opinion of the collector or deputy collector was false or fraudulent, or contained any understatement or undervaluation, such assessment shall not be remitted, nor shall taxes collected under such assessment be refunded, or paid back, or recovered by any suit, unless it is proved that such list, statement, or return was not willfully false or fraudulent and did not contain any willful understatement or undervaluation. (R. S. § 3225; Acts July 13, 1866, c. 184, § 9, 14 Stat. 111; Dec. 24, 1872, c. 13, § 1, 17 Stat. 401; Sept. 8, 1916, c. 463, § 14(d), 39 Stat. 773; Feb. 24, 1919, c. 18, § 1316.)

CHAPTER 3.

SPECIAL TAXES.

§ 5150. Repealed by Act Feb. 24, 1919, c. 18, § 704.

§§ 5159-5167. Repealed by § 5634a.

CHAPTER 4.

DISTILLED SPIRITS AND WINES.

§ 5177. Brandy made from fruits.—The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may exempt distillers of brandy made exclusively from apples, peaches, grapes, pears, pineapples,

oranges, apricots, berries, plums, pawpaws, persimmons, prunes, figs, or cherries from any provision of this title relating to the manufacture of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so: Provided, That where, in the manufacture of wine, artificial sweetening has been used the wine or the fruit pomace residuum may be used in the distillation of brandy, and such use shall not prevent the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, from exempting such distiller from any provision of this title relating to the manufacture of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so: And provided further, That the distillers mentioned in this section may add to not less than five hundred gallons (or ten barrels) of grape cheese not more than five hundred gallons of a sugar solution made from, cane, beet, starch, or corn sugar, 95 per centum pure, such solution to have a saccharine strength of not to exceed 10 per centum, and may ferment the resultant mixture on a winery or distillery premises, and such fermented product shall be regarded as distilling material. (R. S. § 3255; Acts July 20, 1868, c. 186, § 2, 15 Stat. 125; June 3, 1896, c. 309, 29 Stat. 195; Feb. 4, 1901, c. 195, 31 Stat. 759; March 2, 1911, c. 198, 36 Stat. 1014; Sept. 8, 1916, c. 463, § 404, 39 Stat. 788; Feb. 24, 1919, c. 18, § 625.)

§ 5188. **Surveys of distilleries.**—On receipt of notice that any person, firm, or corporation wishes to commence the business of distilling, the collector, or a deputy collector, to be designated by him, shall proceed in person, at the expense of the United States, with the aid of an assistant designated by the Commissioner of Internal Revenue for the purpose of making surveys of distilleries in that district, to make a survey of such distillery for the purpose of estimating and determining its true spirit-producing capacity for a day of twenty-four hours.

In all surveys forty-five gallons of mash or beer brewed or fermented from grain shall represent not less than one bushel of grain, and seven gallons of mash or beer brewed or fermented from molasses shall represent not less than one gallon of molasses, except in distilleries operated on the sour-mash principle, in which distilleries sixty gallons of beer brewed or fermented from grain shall represent not less than one bushel of grain, and except that in distilleries where the filtration-aeration process is used, with the approval of the Commissioner of Internal Revenue; that is, where the mash after it leaves the mash tub is passed through a filtering machine before it is run into the fermenting tub, and only the filtered liquor passes into the fermenting tub, there shall hereafter be no limitation upon the number of gallons of water which may be used in the process of mashing or filtration for fermentation; but the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, in order to protect the revenue, shall be authorized to prescribe by regulation, to be made by him, such character of survey as he may find suitable for distilleries using such filtration-aeration process. The provisions hereof relating to filtration-aeration process shall apply only to sweet-mash distilleries.

A written report of such survey shall be made in triplicate, of which one copy shall be delivered to the distiller, one copy shall be retained by the collector, and one copy shall be transmitted to the Commissioner of Internal Revenue, and the survey shall take effect upon the delivery of such copy to the distiller. Whenever the Commissioner is satisfied that any report of the capacity of a distillery is incorrect or needs revision, he shall direct the collector to make in like manner another survey of said distillery, and the report thereof shall be made and deposited as hereinbefore required: Provided, That the survey of any distillery estimated and stated by the distiller, in his notice of intention to distill, as capable of distilling not more than one hundred and fifty proof-gallons of distilled spirits every twenty-four hours may be made by the collector or by a deputy collector without the aid of an assistant; and that all surveys made for the purpose of correcting clerical errors or errors of computation existing in the report of a previous survey, and all surveys made for the purpose of changing the true spirit-producing capacity of any distillery for a day of twenty-four hours as estimated and determined by a previous survey, but which surveys do not require the remeasuring of the fermenting tubs in a grain or molasses distillery, or the still or stills in a distillery of apples, peaches, or

grapes exclusively, may be made without taking the measurements of the fermenting tubs or stills, as the case may be, and without revisiting the distillery: And provided further, That the Commissioner of Internal Revenue may, whenever he shall deem it proper, designate an officer, agent, or person other than the collector or deputy collector, to make, with or without the aid of a designated assistant, the surveys and resurveys hereinabove provided for. (R. S. § 3264; Acts June 6, 1872, c. 315, § 12, 17 Stat. 239; Dec. 24, 1872, c. 13, § 1, 17 Stat. 401; March 1, 1879, c. 125, § 5, 20 Stat. 334; June 22, 1910, c. 329, § 1, 36 Stat. 590; Sept. 8, 1916, c. 463, § 402(i), 39 Stat. 787; Feb. 24, 1919, c. 18, § 623.)

§ 5243. Repealed by § 5634a.

§ 5260. **Restamping tax-paid liquors or tobacco when stamps lost or destroyed.**—The Commissioner of Internal Revenue may, under regulations prescribed by him with the approval of the Secretary of the Treasury, issue stamps for restamping packages of distilled spirits, tobacco, cigars, snuff, cigarettes, fermented liquors, and wines which have been duly stamped but from which the stamps have been lost or destroyed by unavoidable accident. (R. S. § 3315; Acts June 6, 1872, c. 315, § 15, 17 Stat. 245; March 1, 1879, c. 125, § 5, 20 Stat. 338; Feb. 24, 1919, c. 18, § 1315.)

§ 5275. Repealed by § 5634a.

§ 5276. Repealed by § 5634a.

§ 5277. **Wine spirits and pure sweet wines.**—Any producer of pure sweet wines may use in the preparation of such sweet wines, under such regulations and after the filing of such notices and bonds, together with the keeping of such records and the rendition of such reports as to materials and products as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, wine spirits produced by any duly authorized distiller, and the Commissioner of Internal Revenue, in determining the liability of any distiller of wine spirits to assessment under section 3309 of the Revised Statutes, is authorized to allow such distiller credit in his computations for the wine spirits withdrawn to be used in fortifying sweet wines under this Act.

The wine spirits mentioned in section 42 is the product resulting from the distillation of fermented grape juice, to which water may have been added prior to, during, or after fermentation, for the sole purpose of facilitating the fermentation and economical distillation thereof, and shall be held to include the product from grapes or their residues commonly known as grape brandy, and shall include commercial grape brandy which may have been colored with burnt sugar or caramel; and the pure sweet wine which may be fortified with wine spirits under the provisions of this Act is fermented or partially fermented grape juice only, with the usual cellar treatment, and shall contain no other substance whatever introduced before, at the time of, or after fermentation, except as herein expressly provided: Provided, That the addition of pure boiled or condensed grape must or pure crystallized cane or beet sugar, or pure dextrose sugar containing, respectively, not less than 95 per centum of actual sugar, calculated on a dry basis, or water, or any or all of them, to the pure grape juice before fermentation, or to the fermented product of such grape juice, or to both, prior to the fortification herein provided for, either for the purpose of perfecting sweet wines according to commercial standards or for mechanical purposes, shall not be excluded by the definition of pure sweet wine aforesaid: Provided, however, That the cane or beet sugar, or pure dextrose sugar added for sweetening purposes shall not be in excess of 11 per centum of the weight of the wine to be fortified: And provided further, That the addition of water herein authorized shall be under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe: Provided, however, That records kept in accordance with such regulations as to the percentage of saccharine, acid, alcoholic, and added water content of the wine offered for fortification shall be open to inspection by any official of the Department of Agriculture thereto duly authorized by the Secretary of Agriculture; but in no case shall such wines to which water has been added be eligible for

fortification under the provisions of this Act, where the same, after fermentation and before fortification, have an alcoholic strength of less than 5 per centum of their volume. (Acts Oct. 1, 1890, c. 1244, §§ 42, 43, 26 Stat. 621; Aug. 27, 1894, c. 349, § 68, 28 Stat. 568; June 7, 1906, c. 3046, § 1, 34 Stat. 215; Oct. 22, 1914, c. 331, § 2, 38 Stat. 747; Sept. 8, 1916, c. 463, § 402, 39 Stat. 785; Feb. 24, 1919, c. 18, § 617.)

Note.—§ 42 is now § 5277.

§ 5278. **Withdrawal of wine spirits from warehouse or distillery.**—Under such regulations and official supervision, and upon the execution of such entries and the giving of such bonds, bills of lading, and other security as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, any producer of pure sweet wines as defined by this Act may withdraw wine spirits from any special bonded warehouse in original packages or from any registered distillery in any quantity not less than eighty wine gallons, and may use so much of the same as may be required by him under such regulations, and after the filing of such notices and bonds and the keeping of such records and the rendition of such reports as to materials and products and the disposition of the same as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, in fortifying the pure sweet wines made by him, and for no other purpose, in accordance with the foregoing limitations and provisions; and the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized whenever he shall deem it to be necessary for the prevention of violations of this law to prescribe that wine spirits withdrawn under this section shall not be used to fortify wines except at a certain distance prescribed by him from any distillery, rectifying house, winery, or other establishment used for producing or storing distilled spirits, or for making or storing wines other than wines which are so fortified, and that in the building in which such fortification of wines is practiced no wines or spirits other than those permitted by this regulation shall be stored in any room or part of the building in which fortification of wines is practiced. The use of wine spirits for the fortification of sweet wines under this Act shall be under the immediate supervision of an officer of internal revenue, who shall make returns describing the kinds and quantities of wine so fortified, and shall affix such stamps and seals to the packages containing such wines as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury; and the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall provide by regulations the time within which wines so fortified with the wine spirits so withdrawn may be subject to inspection, and for final accounting for the use of such wine spirits and for rewarehousing or for payment of the tax on any portion of such wine spirits which remain not used in fortifying pure sweet wines. (Acts Oct. 1, 1890, c. 1244, § 45, 26 Stat. 622; Oct. 22, 1914, c. 331, § 2, 38 Stat. 747; Sept. 8, 1916, c. 463, § 402(c), 39 Stat. 785; Feb. 24, 1919, c. 18, § 617.)

§§ 5279-5283. Repealed by § 5634a.

§ 5296. Repealed by § 5634a.

CHAPTER 5.

FERMENTED LIQUORS.

§ 5314. Repealed by § 5634a.

§ 5331. **Withdrawing liquor from unstamped packages for bottling, or bottling on brewery premises.**—Every person who withdraws any fermented liquor from any hogshead, barrel, keg, or other vessel upon which the proper stamp has not been affixed for the purpose of bottling the same, or who carries on or attempts to carry on the business of bottling fermented liquor in any brewery or other place in which fermented liquor is made, or upon any premises having communication with such brewery, or any warehouse, shall be liable to a fine of \$500, and the property used in such bottling or business shall be liable to forfeiture: Provided, however, That this section shall not be construed to prevent the withdrawal and transfer

of unfermented, partially fermented, or fermented liquors from any of the vats in any brewery by way of a pipe line or other conduit to another building or place for the sole purpose of bottling the same, such pipe line or conduit to be constructed and operated in such manner and with such cisterns, vats, tanks, valves, cocks, faucets, and gauges, or other utensils or apparatus, either on the premises of the brewery or the bottling house, and with such changes of or additions thereto, and such locks, seals, or other fastenings, and under such rules and regulations as shall be from time to time prescribed by the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, and all locks and seals prescribed shall be provided by the Commissioner of Internal Revenue at the expense of the United States: Provided further, That the tax imposed in section 3339 of the Revised Statutes shall be paid on all fermented liquor removed from a brewery to a bottling house by means of a pipe or conduit, at the time of such removal, by the cancellation and defacement, by the collector of the district or his deputy, in the presence of the brewer, of the number of stamps denoting the tax on the fermented liquor thus removed. The stamps thus cancelled and defaced shall be disposed of and accounted for in the manner directed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. And any violation of the rules and regulations hereafter prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, in pursuance of these provisions, shall be subject to the penalties above provided by this section. Every owner, agent, or superintendent of any brewery or bottling house who removes, or connives at the removal of, any fermented liquor through a pipe line or conduit, without payment of the tax thereon, or who attempts in any manner to defraud the revenue as above, shall forfeit all the liquors made by and for him, and all the vessels, utensils, and apparatus used in making the same. (R. S. § 3354; Acts July 13, 1866, c. 184, § 58, 14 Stat. 167; June 6, 1872, c. 315, § 30, 17 Stat. 249; June 18, 1890, c. 431, 26 Stat. 161; Sept. 8, 1916, c. 463, § 406, 39 Stat. 787; Feb. 24, 1919, c. 18, § 627.)

CHAPTER 6.

TOBACCO AND SNUFF.

§ 5338. **Records, reports and bond of dealer in leaf tobacco.**—(a) Every dealer in leaf tobacco shall file with the collector of the district in which his business is carried on, a statement in duplicate, subscribed under oath, setting forth the place, and, if in a city, the street and number of the street, where his business is to be carried on, and the exact location of each place where leaf tobacco is held by him on storage, and, whenever he adds to or discontinues any of his leaf tobacco storage places, he shall give immediate notice to the collector of the district in which he is registered.

Every such dealer shall give a bond with surety, satisfactory to, and to be approved by, the collector of the district, in such penal sum as the collector may require, not less than \$500; and a new bond may be required in the discretion of the collector or under instructions of the Commissioner.

Every such dealer shall be assigned a number by the collector of the district, which number shall appear in every inventory, invoice and report rendered by the dealer, who shall also obtain certificates from the collector of the district setting forth the place where his business is carried on and the places designated by the dealer as the places of storage of his tobacco, which certificates shall be posted conspicuously within the dealer's registered place of business, and within each designated place of storage.

(b) Every dealer in leaf tobacco shall make and deliver to the collector of the district a true inventory of the quantity of the different kinds of tobacco held or owned, and where stored by him, on the first day of January, of each year, or at the time of commencing and at the time of concluding business, if before or after the first day of January, such inventory to be made under oath and rendered in such form as may be prescribed by the Commissioner.

Every dealer in leaf tobacco shall render such invoices and keep such records as shall be prescribed by the Commissioner, and shall enter therein, day by day, and upon the same day on which the circumstance, thing or

act to be recorded is done or occurs, an accurate account of the number of hogsheads, tierces, cases and bales, and quantity of leaf tobacco contained therein, purchased or received by him, on assignment, consignment, for storage, by transfer or otherwise, and of whom purchased or received, and the number of hogsheads, tierces, cases and bales, and the quantity of leaf tobacco contained therein, sold by him, with the name and residence in each instance of the person to whom sold, and if shipped, to whom shipped, and to what district; such records shall be kept at his place of business at all times and preserved for a period of two years, and the same shall be open at all hours for the inspection of any internal-revenue officer or agent.

Every dealer in leaf tobacco on or before the tenth day of each month, shall furnish to the collector of the district a true and complete report of all purchases, receipts, sales and shipments of leaf tobacco made by him during the month, next preceding, which report shall be verified and rendered in such form as the Commissioner, with the approval of the Secretary, shall prescribe.

(c) Sales or shipments of leaf tobacco by a dealer in leaf tobacco shall be in quantities of not less than a hogshead, tierce, case, or bale, except loose leaf tobacco comprising the breaks on warehouse floors, and except to a duly registered manufacturer of cigars for use in his own manufactory exclusively.

Dealers in leaf tobacco shall make shipments of leaf tobacco only to other dealers in leaf tobacco, to registered manufacturers of tobacco, snuff, cigars or cigarettes, or for export.

(d) Upon all leaf tobacco sold, removed or shipped by any dealer in leaf tobacco in violation of the provisions of subdivision (c), or in respect to which no report has been made by such dealer in accordance with the provisions of subdivision (b), there shall be levied, assessed, collected and paid a tax equal to the tax then in force upon manufactured tobacco, such tax to be assessed and collected in the same manner as the tax on manufactured tobacco.

(e) Every dealer in leaf tobacco

(1) who neglects or refuses to furnish the statement, to give bond, to keep books, to file inventory or to render the invoices, returns or reports required by the Commissioner, or to notify the collector of the district of additions to his places of storage; or

(2) who ships or delivers leaf tobacco, except as herein provided; or

(3) who fraudulently omits to account for tobacco purchased, received, sold, or shipped; shall be fined not less than \$100 or more than \$500, or imprisoned not more than one year, or both.

(f) For the purpose of this section a farmer or grower of tobacco shall not be regarded as a dealer in leaf tobacco in respect to the leaf tobacco produced by him. (R. S. § 3360; Acts July 20, 1868, c. 186, § 76, 15 Stat. 158; March 1, 1879, c. 125, § 14, 20 Stat. 345; Feb. 24, 1919, c. 18, § 704.)

§ 5339. How manufactured tobacco put up.—All manufactured tobacco shall be put up and prepared by the manufacturer for sale, or removal for sale or consumption, in packages of the following description and in no other manner:

All smoking tobacco, snuff, fine-cut chewing tobacco, all cut and granulated tobacco, all shorts, the refuse of fine-cut chewing, which has passed through a riddle of thirty-six meshes to the square inch, and all refuse scraps, clippings, cuttings, and sweepings of tobacco, and all other kinds of tobacco not otherwise provided for, in packages containing one-eighth of an ounce, three-eighths of an ounce, and further packages with a difference between each package and the one next smaller of one-eighth of an ounce up to and including two ounces, and further packages with a difference between each package and the one next smaller of one-fourth of an ounce up to and including four ounces, and packages of five ounces, six ounces, seven ounces, eight ounces, ten ounces, twelve ounces, fourteen ounces, and sixteen ounces: Provided, That snuff may, at the option of the manufacturer, be put up in bladders and in jars containing not exceeding twenty pounds.

All cavendish, plug, and twist tobacco, in wooden packages not exceeding two hundred pounds net weight.

And every such wooden package shall have printed or marked thereon the manufacturer's name and place of manufacture, the registered number of the manufactory, and the gross weight, the tare, and the net weight of the tobacco in each package: Provided, That these limitations and descriptions of packages shall not apply to tobacco and snuff transported in bond for exportation and actually exported: And provided further, That perique tobacco, snuff flour, fine-cut shorts, the refuse of fine-cut chewing tobacco, refuse scraps, clippings, cuttings, and sweepings of tobacco, may be sold in bulk as material, and without the payment of tax, by one manufacturer directly to another manufacturer, or for export, under such restrictions, rules, and regulations as the Commissioner of Internal Revenue may prescribe: And provided further, That wood, metal, paper, or other materials may be used separately or in combination for packing tobacco, snuff, and cigars, under such regulations as the Commissioner of Internal Revenue may establish. (R. S. § 3362; Acts July 20, 1868, c. 186, § 62, 15 Stat. 153; June 6, 1872, c. 315, § 31, 17 Stat. 252; Feb. 27, 1877, c. 69, § 1, 19 Stat. 248; March 1, 1879, c. 125, § 14, 20 Stat. 345; Jan. 9, 1883, c. 16, 22 Stat. 401; July 1, 1902, c. 1371, § 1, 32 Stat. 714; Aug. 5, 1909, c. 6, § 30, 36 Stat. 108; Feb. 24, 1919, c. 18, § 701.)

CHAPTER 12.

OPIUM AND COCA LEAVES.

§ 5452. Registration by and special tax on producer or dealer in opium or coca leaves.—On or before July 1 of each year every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, or gives away opium or coca leaves, or any compound, manufacture, salt, derivative, or preparation thereof, shall register with the collector of internal revenue of the district his name or style, place of business and place or places where such business is to be carried on, and pay the special taxes hereinafter provided;

Every person who on January 1, 1919, is engaged in any of the activities above enumerated, or who between such date and the passage of this Act first engages in any of such activities, shall within 30 days after the passage of this Act make like registration, and shall pay the proportionate part of the tax for the period ending June 30, 1919; and

Every person who first engages in any of such activities after the passage of this Act shall immediately make like registration and pay the proportionate part of the tax for the period ending on the following June 30;

Importers, manufacturers, producers, or compounders, \$24 per annum; wholesale dealers, \$12 per annum; retail dealers, \$6 per annum; physicians, dentists, veterinary surgeons, and other practitioners lawfully entitled to distribute, dispense, give away, or administer any of the aforesaid drugs to patients upon whom they in the course of their professional practice are in attendance, shall pay \$3 per annum.

Every person who imports, manufactures, compounds, or otherwise produces for sale or distribution any of the aforesaid drugs shall be deemed to be an importer, manufacturer, or producer.

Every person who sells or offers for sale any of said drugs in the original stamped packages, as hereinafter provided, shall be deemed a wholesale dealer.

Every person who sells or dispenses from original stamped packages, as hereinafter provided, shall be deemed a retail dealer: Provided, That the office, or if none, the residence, of any person shall be considered for the purpose of this Act his place of business; but no employee of any person who has registered and paid special tax as herein required, acting within the scope of his employment, shall be required to register and pay special tax provided by this section: Provided further, That officials of the United States, Territorial, District of Columbia, or insular possessions, State or municipal governments, who in the exercise of their official duties engage in any of the business herein described, shall not be required to register, nor pay special tax, nor stamp the aforesaid drugs as hereinafter prescribed, but their right to this exemption shall be evidenced in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations prescribe.

It shall be unlawful for any person required to register under the provisions of this Act to import, manufacture, produce, compound, sell, deal in, dispense, distribute, administer, or give away any of the aforesaid drugs without having registered and paid the special tax as imposed by this section.

The word "person" as used in this Act shall be construed to mean and include a partnership, association, company, or corporation, as well as a natural person; and all provisions of existing law relating to special taxes, as far as necessary, are hereby extended and made applicable to this section.

There shall be levied, assessed, collected, and paid upon opium, coca leaves, any compound, salt, derivative, or preparation thereof, produced in or imported into the United States, and sold, or removed for consumption or sale, an internal-revenue tax at the rate of 1 cent per ounce, and any fraction of an ounce in a package shall be taxed as an ounce such tax to be paid by the importer, manufacturer, producer, or compounder thereof, and to be represented by appropriate stamps, to be provided by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury; and the stamps herein provided shall be so affixed to the bottle or other container as to securely seal the stopper, covering, or wrapper thereof.

The tax imposed by this section shall be in addition to any import duty imposed on the aforesaid drugs.

It shall be unlawful for any person to purchase, sell, dispense, or distribute any of the aforesaid drugs except in the original stamped package or from the original stamped package; and the absence of appropriate tax-paid stamps from any of the aforesaid drugs shall be prima facie evidence of a violation of this section by the person in whose possession same may be found; and the possession of any original stamped package containing any of the aforesaid drugs by any person who has not registered and paid special taxes as required by this section shall be prima facie evidence of liability to such special tax: Provided, That the provisions of this paragraph shall not apply to any person having in his or her possession any of the aforesaid drugs which have been obtained from a registered dealer in pursuance of a prescription, written for legitimate medical uses, issued by a physician, dentist, veterinary surgeon, or other practitioner registered under this Act; and where the bottle or other container in which such drug may be put up by the dealer upon said prescription bears the name and registry number of the druggist, serial number of prescription, name and address of the patient, and name, address, and registry number of the person writing said prescription; or to the dispensing, or administration, or giving away, of any of the aforesaid drugs to a patient by a registered physician, dentist, veterinary surgeon, or other practitioner in the course of his professional practice, and where said drugs are dispensed or administered to the patient for legitimate medical purposes, and the record kept as required by this Act of the drugs so dispensed, administered, distributed, or given away.

And all the provisions of existing laws relating to the engraving, issuance, sale, accountability, cancellation, and destruction of tax-paid stamps, provided for in the internal-revenue laws are, in so far as necessary, hereby extended and made to apply to stamps provided by this section.

All unstamped packages of the aforesaid drugs found in the possession of any person, except as herein provided, shall be subject to seizure and forfeiture, and all the provisions of existing internal-revenue laws relating to searches, seizures, and forfeitures of unstamped articles are hereby extended to and made to apply to the articles taxed under this Act and the persons upon whom these taxes are imposed.

Importers, manufacturers, and wholesale dealers shall keep such books and records and render such monthly returns in relation to the transactions in the aforesaid drugs as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations require.

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all needful rules and regulations for carrying the provisions of this Act into effect. (Acts Dec. 17, 1914, c. 1, § 1, 38 Stat. 785; Feb. 24, 1919, c. 18, § 1006.)

§ 5457. Opium Act not to apply to certain preparations; records.—The provisions of this Act shall not be construed to apply to the manufacture,

sale, distribution, giving away, dispensing, or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codiene, or any salt or derivative of any of them in one fluid ounce, or, if a solid or semisolid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use, only, except liniments, ointments, and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them: Provided, That such remedies and preparations are manufactured, sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this Act: Provided further, That any manufacturer, producer, compounder, or vendor (including dispensing physicians) of the preparations and remedies mentioned in this section shall keep a record of all sales, exchanges, or gifts of such preparations and remedies in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall direct. Such record shall be preserved for a period of two years in such a way as to be readily accessible to inspection by any officer, agent or employee of the Treasury Department duly authorized for that purpose, and the State, Territorial, District, municipal, and insular officers named in section 5 in this Act, and every such person so possessing or disposing of such preparations and remedies shall register as required in section 1 of this Act and, if he is not paying a tax under this Act, he shall pay a special tax of \$1 for each year, or fractional part thereof, in which he is engaged in such occupation, to the collector of internal revenue of the district in which he carries on such occupation as provided in this Act. The provisions of this Act as amended shall not apply to decocainized coca leaves or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine. (Acts Dec. 17, 1914, c. 1, § 6, 38 Stat. 789; Feb. 24, 1919, c. 18, § 1007.)

Note.—§ 1 is now § 5452; § 5 is now § 5457.

CHAPTER 14.

COTTON FUTURES.

§ 5484. Tax not levied on contracts complying with certain conditions; disputes.—No tax shall be levied under this Act on any contract of sale mentioned in section three hereof if the contract comply with each of the following conditions:

First. Conform to the requirements of section four of, and the rules and regulations made pursuant to, this Act.

Second. Specify the basis grade for cotton involved in the contract, which shall be one of the grades for which standards are established by the Secretary of Agriculture, except grades prohibited from being delivered on a contract made under this section by the fifth subdivision of this section, the price per pound at which the cotton of such basis grade is contracted to be bought or sold, the date when the purchase or sale was made, and the month or months in which the contract is to be fulfilled or settled: Provided, That middling shall be deemed the basis grade incorporated into the contract if no other basis grade be specified either in the contract or in the memorandum evidencing the same.

Third. Provide that the cotton dealt with herein or delivered thereunder shall be of or within the grades for which standards are established by the Secretary of Agriculture except grades prohibited from being delivered on a contract made under this section by the fifth subdivision of this section and no other grade or grades.

Fourth. Provide that in case cotton of grade other than the basis grade be tendered or delivered in settlement of such contract, the differences above or below the contract price which the receiver shall pay for such grades other than the basis grade shall be the actual commercial differences, determined as hereinafter provided.

Fifth. Provide that cotton that, because of the presence of extraneous matter of any character, or irregularities or defects, is reduced in value below that of low middling, or cotton that is below the grade of low middling, or, if tinged, cotton that is below the grade of strict middling, or, if yellow

stained, cotton that is below the grade of good middling, the grades mentioned being of the official cotton standards of the United States, or cotton that is less than seven-eighths of an inch in length of staple, or cotton of perished staple or of immature staple, or cotton that is "gin cut" or reginned, or cotton that is "repacked" or "false packed" or "mixed packed" or "water packed," shall not be delivered on, under, or in settlement of such contract.

Sixth. Provide that all tenders of cotton under such contract shall be the full number of bales involved therein, except that such variations of the number of bales may be permitted as is necessary to bring the total weight of the cotton tendered within the provisions of the contract as to weight; that, on the fifth business day prior to delivery, the person making the tender shall give to the person receiving the same written notice of the date of delivery, and that, on or prior to the date so fixed for delivery, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a written notice or certificate stating the grade of each individual bale to be delivered and, by means of marks or numbers, identifying each bale with its grade.

Seventh. *Provide that all tenders of cotton and settlements therefor under such contract shall be in accordance with the classification thereof made under the regulations of the Secretary of Agriculture by such officer or officers of the Government as shall be designated for the purpose, and the costs of such classification shall be fixed, assessed, collected, and paid as provided in such regulations. All moneys collected as such costs may be used as a revolving fund for carrying out the purposes of this subdivision, and section nineteen of this Act is amended accordingly.*

The provisions of the third, fourth, fifth, sixth, and seventh subdivisions of this section shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandum evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States cotton futures Act. section five."

The Secretary of Agriculture is authorized to prescribe regulations for carrying out the purposes of the seventh subdivision of this section, and the certificates of the officers of the Government as to the classification of any cotton for the purposes of said subdivision shall be accepted in the courts of the United States in all suits between the parties to such contract, or their privies, as prima facie evidence of the true classification of the cotton involved. (Acts Aug. 11, 1916, c. 313, § 5, 39 Stat. 476; March 4, 1919, c. 125, § 6.)

Note 1.—The amending Act last cited, here printed in italics, provides: "The foregoing amendments to section five of said Act [of 1916] shall become effective on and after the approval of this Act, but nothing herein shall be construed to diminish any authority conferred on any official of the United States necessary to enable him to carry out any duties remaining to be performed by him under said Act as unamended, or to impair the effect of such Act as to any contract subject to its provisions entered into prior to the effective date of said amendments, or to impair the effect of the findings of the Secretary of Agriculture upon any dispute referred to him under said section five as unamended." The remainder of the Act of 1919 will be found at §§ 5488, 10193a-10193k herein.

Note 2.—Res. June 2, 1920, No. 46, c. 220, provides that "the provision of the Act entitled 'An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1921,' approved May 31, 1920, which reads as follows: 'That hereafter each lot of cotton classified as tenderable in whole or in part on a section 5 contract of said Act as amended, shall give to the buyer the right to demand that one-half of the contract shall be delivered in the official cotton standard grades of the United States from the grades of middling fair, strict good middling, good middling, strict middling, and middling, and that the seller shall have the option of delivering the other half of said contract from any of the official cotton standard grades as established in said Act,' be, and the same is hereby, repealed."

Note 3.—§ 3 is § 5482 of Barnes' Federal Code.

§ 5488. Bona fide spot markets.—In determining, pursuant to the provisions of this Act, what markets are bona fide spot markets, the Secretary of Agriculture is directed to consider only markets in which spot cotton is sold in such volume and under such conditions as customarily to reflect accurately the value of middling cotton and the differences between the prices or values of middling cotton and of other grades of cotton for which standards shall have been established by the Secretary of Agriculture: Provided, That if there be not sufficient places, in the markets of which

are made bona fide sales of spot cotton of grades for which standards are established by the Secretary of Agriculture, to enable him to designate at least five spot markets in accordance with section six of this Act, he shall, from data as to spot sales collected by him, make rules and regulations for determining the actual commercial differences in the value of spot cotton of the grades established by him as reflected by bona fide sales of spot cotton, of the same or different grades, in the markets selected and designated by him, from time to time, for that purpose, and in that event, differences in value of cotton of various grades involved in contracts made pursuant to section five of this Act shall be determined in compliance with such rules and regulations: Provided further, That it shall be the duty of any person engaged in the business of dealing in cotton, when requested by the Secretary of Agriculture or any agent acting under his instructions, to answer correctly to the best of his knowledge, under oath or otherwise, all questions touching his knowledge of the number of bales, the classification, the price or bona fide price offered, and other terms of purchase or sale, of any cotton involved in any transaction participated in by him, or to produce all books, letters, papers, or documents in his possession or under his control relating to such matter. Any such person who shall, within a reasonable time prescribed by the Secretary of Agriculture or such agent, willfully fail or refuse to answer such questions or to produce such books, letters, papers, or documents, or who shall willfully give any answer that is false or misleading, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$500. (Acts Aug. 11, 1916, c. 313, § 8, 39 Stat. 479; March 4, 1919, c. 125, § 6.)

Note.—The remainder of section 6 of the Act of 1919 is found at §§ 5484, 10193f herein.

§ 5498. Moneys and publications.

Note.—See the seventh subdivision of § 5484 herein, operating as an amendment of this section.

CHAPTER 15.

ESTATE TAXES.

§§ 5502-5513. Repealed by § 5634a.

CHAPTER 16.

REVENUE ACT OF 1918.

Note.—By § 1405 thereof—§ 5634c below—this statute, approved Feb. 24, 1919, is given the designation used here as the chapter heading. See § 5634a, repealing prior legislation.

TITLE I.—GENERAL DEFINITIONS.

§ 5514. General definitions.—When used in this Act—

The term "person" includes partnerships and corporations, as well as individuals;

The term "corporation" includes associations, joint-stock companies, and insurance companies;

The term "domestic" when applied to a corporation or partnership means created or organized in the United States;

The term "foreign" when applied to a corporation or partnership means created or organized outside the United States;

The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia;

The term "Secretary" means the Secretary of the Treasury;

The term "Commissioner" means the Commissioner of Internal Revenue;

The term "collector" means collector of internal revenue;

The term "Revenue Act of 1916" means the Act entitled "An Act to increase the revenue, and for other purposes," approved September 8, 1916;

The term "Revenue Act of 1917" means the Act entitled "An Act to provide revenue to defray war expenses, and for other purposes," approved October 3, 1917;

The term "taxpayer" includes any person, trust or estate subject to a tax imposed by this Act:

The term "Government contract" means (a) a contract made with the United States, or with any department, bureau, officer, commission, board, or agency, under the United States and acting in its behalf, or with any agency controlled by any of the above if the contract is for the benefit of the United States, or (b) a subcontract made with a contractor performing such a contract if the products or services to be furnished under the subcontract are for the benefit of the United States. The term "Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive" when applied to a contract of the kind referred to in clause (a) of this paragraph, includes all such contracts which, although entered into during such period, were originally not enforceable, but which have been or may become enforceable by reason of subsequent validation in pursuance of law;

The term "military or naval forces of the United States" includes the Marine Corps, the Coast Guard, the Army Nurse Corps, Female, and the Navy Nurse Corps, Female, but this shall not be deemed to exclude other units otherwise included within such term;

The term "present war" means the war in which the United States is now engaged against the German Government.

For the purpose of this Act the date of the termination of the present war shall be fixed by proclamation of the President. (Act Feb. 24, 1919, c. 18, § 1.)

TITLE II.—INCOME TAX.

PART I.—GENERAL PROVISIONS.

§ 5515. Definitions.—When used in this title—

The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under section 212 or section 232. The term "fiscal year" means an accounting period of twelve months ending on the last day of any month other than December. The first taxable year, to be called the taxable year 1918, shall be the calendar year 1918 or any fiscal year ending during the calendar year 1918;

The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person, trust or estate;

The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section 221 or section 237;

The term "personal service corporation" means a corporation whose income is to be ascribed primarily to the activities of the principal owners or stockholders who are themselves regularly engaged in the active conduct of the affairs of the corporation and in which capital (whether invested or borrowed) is not a material income-producing factor; but does not include any foreign corporation, nor any corporation 50 per centum or more of whose gross income consists either (1) of gains, profits or income derived from trading as a principal, or (2) of gains, profits, commissions, or other income, derived from a Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive;

The term "paid," for the purposes of the deductions and credits under this title, means "paid or accrued" or "paid or incurred," and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under section 212. (Act Feb. 24, 1919, c. 18, § 200.)

Note.—§ 212 is now § 5524; § 221 is now § 5533; § 233 is now § 5543; § 237 is now § 5548.

§ 5516. Dividends.—(a) The term "dividend" when used in this title (except in paragraph (10) of subdivision (a) of section 234) means (1) any distribution made by a corporation, other than a personal service corporation, to its shareholders or members, whether in cash or in other property or in stock of the corporation, out of its earnings or profits accumulated since February 28, 1913, or (2) any such distribution made by a personal service corporation out of its earnings or profits accumulated since February 28, 1913, and prior to January 1, 1918.

(b) Any distribution shall be deemed to have been made from earnings or profits unless all earnings and profits have first been distributed. Any

distribution made in the year 1918 or any year thereafter shall be deemed to have been made from earnings or profits accumulated since February 28, 1913, or, in the case of a personal service corporation, from the most recently accumulated earnings or profits; but any earnings or profits accumulated prior to March 1, 1913, may be distributed in stock dividends or otherwise, exempt from the tax, after the earnings and profits accumulated since February 28, 1913, have been distributed.

(c) A dividend paid in stock of the corporation shall be considered income to the amount of the earnings or profits distributed. Amounts distributed in the liquidation of a corporation shall be treated as payments in exchange for stock or shares, and any gain or profit realized thereby shall be taxed to the distributee as other gains or profits.

(d) If any stock dividend (1) is received by a taxpayer between January 1 and November 1, 1918, both dates inclusive, or (2) is during such period bona fide authorized or declared, and entered on the books of the corporation, and is received by a taxpayer after November 1, 1918, and before the expiration of thirty days after the passage of this Act, then such dividend shall, in the manner provided in section 206, be taxed to the recipient at the rates prescribed by law for the years in which the corporation accumulated the earnings or profits from which such dividend was paid, but the dividend shall be deemed to have been paid from the most recently accumulated earnings or profits.

(e) Any distribution made during the first sixty days of any taxable year shall be deemed to have been made from earnings or profits accumulated during the preceding taxable years; but any distribution made during the remainder of the taxable year shall be deemed to have been made from earnings or profits accumulated between the close of the preceding taxable year and the date of distribution, to the extent of such earnings or profits, and if the books of the corporation do not show the amount of such earnings or profits, the earnings or profits for the accounting period within which the distribution was made shall be deemed to have been accumulated ratably during such period. (Act Feb. 24, 1919, c. 18, § 201.)

Note.—§ 206 is now § 5521; § 234 is now § 5545.

§ 5517. Basis for determining gain or loss.—(a) For the purpose of ascertaining the gain derived or loss sustained from the sale or other disposition of property, real, personal, or mixed, the basis shall be—

(1) In the case of property acquired before March 1, 1913, the fair market price or value of such property as of that date; and

(2) In the case of property acquired on or after that date, the cost thereof; or the inventory value, if the inventory is made in accordance with section 203.

(b) When property is exchanged for other property, the property received in exchange shall for the purpose of determining gain or loss be treated as the equivalent of cash to the amount of its fair market value, if any; but when in connection with the reorganization, merger, or consolidation of a corporation a person receives in place of stock or securities owned by him new stock or securities of no greater par or face value, no gain or loss shall be deemed to occur from the exchange, and the new stock or securities received shall be treated as taking the place of the stock, securities or property exchanged.

When in the case of any such reorganization, merger or consolidation the aggregate par or face value of the new stock or securities received is in excess of the aggregate par or face value of the stock or securities exchanged, a like amount in par or face value of the new stock or securities received shall be treated as taking the place of the stock or securities exchanged, and the amount of the excess in par or face value shall be treated as a gain to the extent that the fair market value of the new stock or securities is greater than the cost (or if acquired prior to March 1, 1913, the fair market value as of that date) of the stock or securities exchanged. (Act Feb. 24, 1919, c. 18, § 202.)

Note.—§ 203 is now § 5518.

§ 5518. Inventories.—Whenever in the opinion of the Commissioner the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the Commissioner, with the approval of the Secretary, may prescribe as conforming as nearly as may be to the best accounting practice in the

trade or business and as most clearly reflecting the income. (Act Feb. 24, 1919, c. 18, § 203.)

§ 5519. Net losses.—(a) As used in this section the term “net loss” refers only to net losses resulting from either (1) the operation of any business regularly carried on by the taxpayer, or (2) the bona fide sale by the taxpayer of plant, buildings, machinery, equipment or other facilities, constructed, installed or acquired by the taxpayer on or after April 6, 1917, for the production of articles contributing to the prosecution of the present war; and when so resulting means the excess of the deductions allowed by law (excluding in the case of corporations amounts allowed as a deduction under paragraph (6) of subdivision (a) of section 234) over the sum of the gross income plus any interest received free from taxation both under this title and under Title III.

(b) If for any taxable year beginning after October 31, 1918, and ending prior to January 1, 1920, it appears upon the production of evidence satisfactory to the Commissioner that any taxpayer has sustained a net loss, the amount of such net loss shall under regulations prescribed by the Commissioner with the approval of the Secretary be deducted from the net income of the taxpayer for the preceding taxable year; and the taxes imposed by this title and by Title III for such preceding taxable year shall be redetermined accordingly. Any amount found to be due to the taxpayer upon the basis of such redetermination shall be credited or refunded to the taxpayer in accordance with the provisions of section 252. If such net loss is in excess of the net income for such preceding taxable year, the amount of such excess shall under regulations prescribed by the Commissioner with the approval of the Secretary be allowed as a deduction in computing the net income for the succeeding taxable year.

(c) The benefit of this section shall be allowed to the members of a partnership and the beneficiaries of an estate or trust under regulations prescribed by the Commissioner with the approval of the Secretary. (Act Feb. 24, 1919, c. 18, § 204.)

Note.—§ 234 is now § 5545; § 252 is now § 5555.

§ 5520. Fiscal year with different rates.—(a) If a taxpayer makes return for a fiscal year beginning in 1917 and ending in 1918, his tax under this title for the first taxable year shall be the sum of: (1) the same proportion of a tax for the entire period computed under Title I of the Revenue Act of 1916 as amended by the Revenue Act of 1917 and under Title I of the Revenue Act of 1917, which the portion of such period falling within the calendar year 1917 is of the entire period, and (2) the same proportion of a tax for the entire period computed under this title at the rates for the calendar year 1918 which the portion of such period falling within the calendar year 1918 is of the entire period: Provided, That in the case of a personal service corporation the amount to be paid shall be only that specified in clause (1).

Any amount heretofore or hereafter paid on account of the tax imposed for such fiscal year by Title I of the Revenue Act of 1916 as amended by the Revenue Act of 1917, and by Title I of the Revenue Act of 1917, shall be credited towards the payment of the tax imposed for such fiscal year by this act, and if the amount so paid exceeds the amount of such tax imposed by this Act, or, in the case of a personal service corporation, the amount specified in clause (1), the excess shall be credited or refunded in accordance with the provisions of section 252.

(b) If a taxpayer makes a return for a fiscal year beginning in 1918 and ending in 1919, the tax under this title for such fiscal year shall be the sum of: (1) the same proportion of a tax for the entire period computed under this title at the rates specified for the calendar year 1918 which the portion of such period falling within the calendar year 1918 is of the entire period, and (2) the same proportion of a tax for the entire period computed under this title at the rates specified for the calendar year 1919 which the portion of such period falling within the calendar year 1919 is of the entire period.

(c) If a fiscal year of a partnership begins in 1917 and ends in 1918 or begins in 1918 and ends in 1919, then notwithstanding the provisions of subdivision (b) of section 218, (1) the rates for the calendar year during which such fiscal year begins shall apply to an amount of each partner's

share of such partnership net income (determined under the law applicable to such year) equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year, and (2) the rates for the calendar year during which such fiscal year ends shall apply to an amount of each partner's share of such partnership net income (determined under the law applicable to such calendar year) equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year: Provided, That in the case of a personal service corporation with respect to a fiscal year beginning in 1917 and ending in 1918, the amount specified in clause (1) shall not be subject to normal tax. (Act Feb. 24, 1919, c. 18, § 205.)

Note.—§ 218 is now § 5530; § 252 is now § 5555.

§ 5521. Parts of income subject to rates for different years.—Whenever parts of a taxpayer's income are subject to rates for different calendar years, the part subject to the rates for the most recent calendar year shall be placed in the lower brackets of the rate schedule provided in this title, the part subject to the rates for the next preceding calendar year shall be placed in the next higher brackets of the rate schedule applicable to that year, and so on until the entire net income has been accounted for. In determining the income, any deductions, exemptions or credits of a kind not plainly and properly chargeable against the income taxable at rates for a preceding year shall first be applied against the income subject to rates for the most recent calendar year; but any balance thereof shall be applied against the income subject to the rates of the next preceding year or years until fully allowed. (Act Feb. 24, 1919, c. 18, § 206.)

PART II.—INDIVIDUALS.

§ 5522. Normal tax.—In lieu of the taxes imposed by subdivision (a) of section 1 of the Revenue Act of 1916 and by section 1 of the Revenue Act of 1917, there shall be levied, collected, and paid for each taxable year upon the net income of every individual a normal income tax at the following rates:

(a) For the calendar year 1918, 12 per centum of the amount of the net income in excess of the credits provided in section 216: Provided, That in the case of a citizen or resident of the United States the rate upon the first \$4,000 of such excess amount shall be 6 per centum;

(b) For each calendar year thereafter, 8 per centum of the amount of the net income in excess of the credits provided in section 216: Provided, That in the case of a citizen or resident of the United States the rate upon the first \$4,000 of such excess amount shall be 4 per centum. (Act Feb. 24, 1919, c. 18, § 210.)

Note.—§ 216 is now § 5528.

§ 5523. Surtax.—(a) In lieu of the taxes imposed by subdivision (b) of section 1 of the Revenue Act of 1916 and by section 2 of the Revenue Act of 1917, but in addition to the normal tax imposed by section 210 of this Act, there shall be levied, collected, and paid for each taxable year upon the net income of every individual, a surtax equal to the sum of the following:

1 per centum of the amount by which the net income exceeds \$5,000 and does not exceed \$6,000;

2 per centum of the amount by which the net income exceeds \$6,000 and does not exceed \$8,000;

3 per centum of the amount by which the net income exceeds \$8,000 and does not exceed \$10,000;

4 per centum of the amount by which the net income exceeds \$10,000 and does not exceed \$12,000;

5 per centum of the amount by which the net income exceeds \$12,000 and does not exceed \$14,000;

6 per centum of the amount by which the net income exceeds \$14,000 and does not exceed \$16,000;

7 per centum of the amount by which the net income exceeds \$16,000 and does not exceed \$18,000;

8 per centum of the amount by which the net income exceeds \$18,000 and does not exceed \$20,000;

9 per centum of the amount by which the net income exceeds \$20,000
and does not exceed \$22,000;
10 per centum of the amount by which the net income exceeds \$22,000
and does not exceed \$24,000;
11 per centum of the amount by which the net income exceeds \$24,000
and does not exceed \$26,000;
12 per centum of the amount by which the net income exceeds \$26,000
and does not exceed \$28,000;
13 per centum of the amount by which the net income exceeds \$28,000
and does not exceed \$30,000;
14 per centum of the amount by which the net income exceeds \$30,000
and does not exceed \$32,000;
15 per centum of the amount by which the net income exceeds \$32,000
and does not exceed \$34,000;
16 per centum of the amount by which the net income exceeds \$34,000
and does not exceed \$36,000;
17 per centum of the amount by which the net income exceeds \$36,000
and does not exceed \$38,000;
18 per centum of the amount by which the net income exceeds \$38,000
and does not exceed \$40,000;
19 per centum of the amount by which the net income exceeds \$40,000
and does not exceed \$42,000;
20 per centum of the amount by which the net income exceeds \$42,000
and does not exceed \$44,000;
21 per centum of the amount by which the net income exceeds \$44,000
and does not exceed \$46,000;
22 per centum of the amount by which the net income exceeds \$46,000
and does not exceed \$48,000;
23 per centum of the amount by which the net income exceeds \$48,000
and does not exceed \$50,000;
24 per centum of the amount by which the net income exceeds \$50,000
and does not exceed \$52,000;
25 per centum of the amount by which the net income exceeds \$52,000
and does not exceed \$54,000;
26 per centum of the amount by which the net income exceeds \$54,000
and does not exceed \$56,000;
27 per centum of the amount by which the net income exceeds \$56,000
and does not exceed \$58,000;
28 per centum of the amount by which the net income exceeds \$58,000
and does not exceed \$60,000;
29 per centum of the amount by which the net income exceeds \$60,000
and does not exceed \$62,000;
30 per centum of the amount by which the net income exceeds \$62,000
and does not exceed \$64,000;
31 per centum of the amount by which the net income exceeds \$64,000
and does not exceed \$66,000;
32 per centum of the amount by which the net income exceeds \$66,000
and does not exceed \$68,000;
33 per centum of the amount by which the net income exceeds \$68,000
and does not exceed \$70,000;
34 per centum of the amount by which the net income exceeds \$70,000
and does not exceed \$72,000;
35 per centum of the amount by which the net income exceeds \$72,000
and does not exceed \$74,000;
36 per centum of the amount by which the net income exceeds \$74,000
and does not exceed \$76,000;
37 per centum of the amount by which the net income exceeds \$76,000
and does not exceed \$78,000;
38 per centum of the amount by which the net income exceeds \$78,000
and does not exceed \$80,000;
39 per centum of the amount by which the net income exceeds \$80,000
and does not exceed \$82,000;
40 per centum of the amount by which the net income exceeds \$82,000
and does not exceed \$84,000;
41 per centum of the amount by which the net income exceeds \$84,000
and does not exceed \$86,000;

42 per centum of the amount by which the net income exceeds \$86,000 and does not exceed \$88,000;
43 per centum of the amount by which the net income exceeds \$88,000 and does not exceed \$90,000;
44 per centum of the amount by which the net income exceeds \$90,000 and does not exceed \$92,000;
45 per centum of the amount by which the net income exceeds \$92,000 and does not exceed \$94,000;
46 per centum of the amount by which the net income exceeds \$94,000 and does not exceed \$96,000;
47 per centum of the amount by which the net income exceeds \$96,000 and does not exceed \$98,000;
48 per centum of the amount by which the net income exceeds \$98,000 and does not exceed \$100,000;
52 per centum of the amount by which the net income exceeds \$100,000 and does not exceed \$150,000;
56 per centum of the amount by which the net income exceeds \$150,000 and does not exceed \$200,000;
60 per centum of the amount by which the net income exceeds \$200,000 and does not exceed \$300,000;
63 per centum of the amount by which the net income exceeds \$300,000 and does not exceed \$500,000;
64 per centum of the amount by which the net income exceeds \$500,000 and does not exceed \$1,000,000;
65 per centum of the amount by which the net income exceeds \$1,000,000.

(b) In the case of a bona fide sale of mines, oil or gas wells, or any interest therein, where the principal value of the property has been demonstrated by prospecting or exploration and discovery work done by the taxpayer, the portion of the tax imposed by this section attributable to such sale shall not exceed 20 per centum of the selling price of such property or interest. (Act Feb. 24, 1919, c. 18, § 211.)

Note.—§ 210 is now § 5522.

§ 5524. Net income defined.—(a) In the case of an individual the term "net income" means the gross income as defined in section 213, less the deductions allowed by section 214.

(b) The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made upon such basis and in such manner as in the opinion of the Commissioner does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in section 200 or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year.

If a taxpayer changes his accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income shall, with the approval of the Commissioner, be computed on the basis of such new accounting period, subject to the provisions of section 226. (Act Feb. 24, 1919, c. 18, § 212.)

Note.—§ 200 is now § 5515; § 213 is now § 5525; § 211 is now § 5526; § 226 is now § 5538.

§ 5525. Gross income defined.—For the purposes of this title (except as otherwise provided in section 233) the term "gross income"—

(a) Includes gain, profits, and income derived from salaries, wages, or compensation for personal service (including in the case of the President of the United States, the judges of the Supreme Court and inferior courts of the United States, and all other officers and employees, whether elected or appointed, of the United States, Alaska, Hawaii, or any political subdivision thereof, or the District of Columbia, the compensation received as such), of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the

transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever. The amount of all such items shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under methods of accounting permitted under subdivision (b) of section 212, any such amounts are to be properly accounted for as of a different period; but

(b) Does not include the following items, which shall be exempt from taxation under this title:

(1) The proceeds of life insurance policies paid upon the death of the insured to individual beneficiaries or to the estate of the insured;

(2) The amount received by the insured as a return of premium or premiums paid by him under life insurance, endowment, or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract;

(3) The value of property acquired by gift, bequest, devise, or descent (but the income from such property shall be included in gross income);

(4) Interest upon (a) the obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia; or (b) securities issued under the provisions of the Federal Farm Loan Act of July 17, 1916; or (c) the obligations of the United States or its possessions; or (d) bonds issued by the War Finance Corporation: Provided, That every person owning any of the obligations, securities or bonds enumerated in clauses (a), (b), (c) and (d) shall, in the return required by this title, submit a statement showing the number and amount of such obligations, securities and bonds owned by him and the income received therefrom, in such form and with such information as the Commissioner may require. In the case of obligations of the United States issued after September 1, 1917, and in the case of bonds issued by the War Finance Corporation, the interest shall be exempt only if and to the extent provided in the respective Acts authorizing the issue thereof as amended and supplemented, and shall be excluded from gross income only if and to the extent it is wholly exempt from taxation to the taxpayer both under this title and under Title III;

(5) The income of foreign governments received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments, or from any other source within the United States;

(6) Amounts received, through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness;

(7) Income derived from any public utility or the exercise of any essential governmental function and accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, or income accruing to the government of any possession of the United States, or any political subdivision thereof.

Whenever any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, prior to September 8, 1916, entered in good faith into a contract with any person, the object and purpose of which is to acquire, construct, operate, or maintain a public utility, no tax shall be levied under the provisions of this title upon the income derived from the operation of such public utility, so far as the payment thereof will impose a loss or burden upon such State, Territory, District of Columbia, or political subdivision; but this provision is not intended to confer upon such person any financial gain or exemption or to relieve such person from the payment of a tax as provided for in this title upon the part or portion of such income to which such person is entitled under such contract;

(8) So much of the amount received during the present war by a person in the military or naval forces of the United States as salary or compensation in any form from the United States for active services in such forces, as does not exceed \$3,500.

(c) In the case of nonresident alien individuals, gross income includes only the gross income from sources within the United States, including interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, dividends from resident corporations, and including all amounts received (although paid under a contract for the sale of goods

or otherwise) representing profits on the manufacture and disposition of goods within the United States. (Act Feb. 24, 1919, c. 18, § 213.)

Note.—§ 212 is now § 5524; § 233 is now § 5544.

§ 5526. Deductions allowed.—(a) In computing net income there shall be allowed as deductions:

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity;

(2) All interest paid or accrued within the taxable year on indebtedness, except on indebtedness incurred or continued to purchase or carry obligations or securities (other than obligations of the United States issued after September 24, 1917), the interest upon which is wholly exempt from taxation under this title as income to the taxpayer, or, in the case of a nonresident alien individual, the proportion of such interest which the amount of his gross income from sources within the United States bears to the amount of his gross income from all sources within and without the United States;

(3) Taxes paid or accrued within the taxable year imposed (a) by the authority of the United States, except income, war-profits and excess-profits taxes; or (b) by the authority of any of its possessions, except the amount of income, war-profits and excess-profits taxes allowed as a credit under section 222; or (c) by the authority of any State or Territory, or any county, school district, municipality, or other taxing subdivision of any State or Territory, not including those assessed against local benefits of a kind tending to increase the value of the property assessed; or (d) in the case of a citizen or resident of the United States, by the authority of any foreign country, except the amount of income, war-profits and excess-profits taxes allowed as a credit under section 222; or (e) in the case of a nonresident alien individual, by the authority of any foreign country (except income, war-profits and excess-profits taxes, and taxes assessed against local benefits of a kind tending to increase the value of the property assessed), upon property or business;

(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in trade or business;

(5) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction entered into for profit, though not connected with the trade or business; but in the case of a nonresident alien individual only as to such transactions within the United States;

(6) Losses sustained during the taxable year of property not connected with the trade or business (but in the case of a nonresident alien individual only property within the United States) if arising from fires, storms, shipwreck, or other casualty, or from theft, and if not compensated for by insurance or otherwise;

(7) Debts ascertained to be worthless and charged off within the taxable year;

(8) A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence;

(9) In the case of buildings, machinery, equipment, or other facilities, constructed, erected, installed, or acquired, on or after April 6, 1917, for the production of articles contributing to the prosecution of the present war, and in the case of vessels constructed or acquired on or after such date for the transportation of articles or men contributing to the prosecution of the present war, there shall be allowed a reasonable deduction for the amortization of such part of the cost of such facilities or vessels as has been borne by the taxpayer, but not again including any amounts otherwise allowed under this title or previous Acts of Congress as a deduction in computing net income. At any time within three years after the termination of the present war, the Commissioner may, and at the request of the taxpayer shall, reexamine the return, and if he then finds as a result of an appraisal or from other evidence that the deduction originally allowed was incorrect, the taxes imposed by this title and by Title III for

the year or years affected shall be redetermined; and the amount of tax due upon such redetermination, if any, shall be paid upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 252;

(10) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case, based upon cost including cost of development not otherwise deducted: Provided, That in the case of such properties acquired prior to March 1, 1913, the fair market value of the property (or the taxpayer's interest therein) on that date shall be taken in lieu of cost up to that date: Provided further, That in the case of mines, oil and gas wells, discovered by the taxpayer, on or after March 1, 1913, and not acquired as the result of purchase of a proven tract or lease, where the fair market value of the property is materially disproportionate to the cost, the depletion allowance shall be based upon the fair market value of the property at the date of the discovery, or within thirty days thereafter; such reasonable allowance in all the above cases to be made under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary. In the case of leases the deductions allowed by this paragraph shall be equitably apportioned between the lessor and lessee;

(11) Contributions or gifts made within the taxable year to corporations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to the special fund for vocational rehabilitation authorized by section 7 of the Vocational Rehabilitation Act, to an amount not in excess of 15 per centum of the taxpayer's net income as computed without the benefit of this paragraph. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner, with the approval of the Secretary. In the case of a nonresident alien individual this deduction shall be allowed only as to contributions or gifts made to domestic corporations, or to such vocational rehabilitation fund;

(12) (a) At the time of filing return for the taxable year 1918 a taxpayer may file a claim in abatement based on the fact that he has sustained a substantial loss (whether or not actually realized by sale or other disposition) resulting from any material reduction (not due to temporary fluctuation) of the value of the inventory for such taxable year, or from the actual payment after the close of such taxable year of rebates in pursuance of contracts entered into during such year upon sales made during such year. In such case payment of the amount of the tax covered by such claim shall not be required until the claim is decided, but the taxpayer shall accompany his claim with a bond in double the amount of the tax covered by the claim, with sureties satisfactory to the Commissioner, conditioned for the payment of any part of such tax found to be due, with interest. If any part of such claim is disallowed then the remainder of the tax due shall on notice and demand by the collector be paid by the taxpayer with interest at the rate of 1 per centum per month from the time the tax would have been due had no such claim been filed. If it is shown to the satisfaction of the Commissioner that such substantial loss has been sustained, then in computing the tax imposed by this title the amount of such loss shall be deducted from the net income. (b) If no such claim is filed, but it is shown to the satisfaction of the Commissioner that during the taxable year 1919 the taxpayer has sustained a substantial loss of the character above described then the amount of such loss shall be deducted from the net income for the taxable year 1918 and the tax imposed by this title for such year shall be redetermined accordingly. Any amount found to be due to the taxpayer upon the basis of such redetermination shall be credited or refunded to the taxpayer in accordance with the provisions of section 252.

(b) In the case of a nonresident alien individual the deductions allowed in paragraphs (1), (4), (7), (8), (9), (10), and (12), and clause (e) of paragraph (3), of subdivision (a) shall be allowed only if and to the extent that they are connected with income arising from a source within the United States; and the proper apportionment and allocation of the deductions with respect to sources of income within and without the United

States shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary. (Act Feb. 24, 1919, c. 18, § 214.)

Note.—§ 222 is now § 5534; § 252 is now § 5555.

§ 5527. Items not deductible.—In computing net incomes no deduction shall in any case be allowed in respect of—

- (a) Personal, living, or family expenses;
- (b) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate;
- (c) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or
- (d) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person finally interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy. (Act Feb. 24, 1919, c. 18, § 215.)

§ 5528. Credits allowed.—For the purpose of the normal tax only there shall be allowed the following credits:

(a) The amount received as dividends from a corporation which is taxable under this title upon its net income, and amounts received as dividends from a personal service corporation out of earnings or profits upon which income tax has been imposed by Act of Congress;

(b) The amount received as interest upon obligations of the United States and bonds issued by the War Finance Corporation, which is included in gross income under section 213;

(c) In the case of a single person, a personal exemption of \$1,000, or in the case of the head of a family or a married person living with husband or wife, a personal exemption of \$2,000. A husband and wife living together shall receive but one personal exemption of \$2,000 against their aggregate net income; and in case they make separate returns, the personal exemption of \$2,000 may be taken by either or divided between them;

(d) \$200 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer, if such dependent person is under eighteen years of age or is incapable of self-support because mentally or physically defective.

(e) In the case of a nonresident alien individual who is a citizen or subject of a country which imposes an income tax, the credits allowed in subdivisions (c) and (d) shall be allowed only if such country allows a similar credit to citizens of the United States not residing in such country. (Act Feb. 24, 1919, c. 18, § 216.)

Note.—§ 213 is now § 5525.

§ 5529. Nonresident aliens; allowance of deductions and credits.—A nonresident alien individual shall receive the benefit of the deductions and credits allowed in this title only by filing or causing to be filed with the collector a true and accurate return of his total income received from all sources corporate or otherwise in the United States, in the manner prescribed by this title, including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits: Provided, That the benefit of the credits allowed in subdivisions (c) and (d) of section 216 may, in the discretion of the Commissioner, and except as otherwise provided in subdivision (e) of that section, be received by filing a claim therefor with the withholding agent. In case of failure to file a return, the collector shall collect the tax on such income, and all property belonging to such nonresident alien individual shall be liable to distraint for the tax. (Act Feb. 24, 1919, c. 18, § 217.)

Note.—§ 216 is now § 5528.

§ 5530. Partnerships and personal service corporations.—(a) Individuals carrying on business in partnership shall be liable for income tax only in their individual capacity. There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year, or, if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the partnership is

computed, then his distributive share of the net income of the partnership for any accounting period of the partnership ending within the fiscal or calendar year upon the basis of which the partner's net income is computed.

The partner shall, for the purpose of the normal tax, be allowed as credits, in addition to the credits allowed to him under section 216, his proportionate share of such amounts specified in subdivisions (a) and (b) of section 216 as are received by the partnership.

(b) If a fiscal year of a partnership ends during a calendar year for which the rates of tax differ from those for the preceding calendar year, then (1) the rates for such preceding calendar year shall apply to an amount of each partner's share of such partnership net income equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year, and (2) the rates for the calendar year during which such fiscal year ends shall apply to the remainder.

(c) In the case of an individual member of a partnership which makes return for a fiscal year beginning in 1917 and ending in 1918, his proportionate share of any excess-profits tax imposed upon the partnership under the Revenue Act of 1917 with respect to that part of such fiscal year falling in 1917, shall, for the purpose of determining the tax imposed by this title, be credited against that portion of the net income embraced in his personal return for the taxable year 1918 to which the rates for 1917 apply.

(d) The net income of the partnership shall be computed in the same manner and on the same basis as provided in section 212 except that the deduction provided in paragraph (11) of subdivision (a) of section 214 shall not be allowed.

(e) Personal service corporations shall not be subject to taxation under this title, but the individual stockholders thereof shall be taxed in the same manner as the members of partnerships. All the provisions of this title relating to partnerships and the members thereof shall so far as practicable apply to personal service corporations and the stockholders thereof: Provided, That for the purpose of this subdivision amounts distributed by a personal service corporation during its taxable year shall be accounted for by the distributees; and any portion of the net income remaining undistributed at the close of its taxable year shall be accounted for by the stockholders of such corporation at the close of its taxable year in proportion to their respective shares. (Act Feb. 24, 1919, c. 18, § 218.)

Note.—§ 212 is now § 5524; § 214 is now § 5526; § 216 is now § 5528.

§ 5531. Estates and trusts.—The tax imposed by sections 210 and 211 shall apply to the income of estates or of any kind of property held in trust, including—

(1) Income received by estates of deceased persons during the period of administration or settlement of the estate;

(2) Income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests;

(3) Income held for future distribution under the terms of the will or trust; and

(4) Income which is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and the income collected by a guardian of an infant to be held or distributed as the court may direct.

(b) The fiduciary shall be responsible for making the return of income for the estate or trust for which he acts. The net income of the estate or trust shall be computed in the same manner and on the same basis as provided in section 212, except that there shall also be allowed as a deduction (in lieu of the deduction authorized by paragraph (11) of subdivision (a) of section 214) any part of the gross income which, pursuant to the terms of the will or deed creating the trust, is during the taxable year paid to or permanently set aside for the United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, or any corporation organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual; and in cases under paragraph (4) of subdivision (a) of this section the fiduciary shall include

in the return a statement of each beneficiary's distributive share of such net income, whether or not distributed before the close of the taxable year for which the return is made.

(c) In cases under paragraph (1), (2), or (3) of subdivision (a) the tax shall be imposed upon the net income of the estate or trust and shall be paid by the fiduciary, except that in determining the net income of the estate of any deceased person during the period of administration or settlement there may be deducted the amount of any income properly paid or credited to any legatee, heir or other beneficiary. In such cases the estate or trust shall, for the purpose of the normal tax, be allowed the same credits as are allowed to single persons under section 216.

(d) In cases under paragraph (4) of subdivision (a), and in the case of any income of an estate during the period of administration or settlement permitted by subdivision (c) to be deducted from the net income upon which tax is to be paid by the fiduciary, the tax shall not be paid by the fiduciary, but there shall be included in computing the net income of each beneficiary his distributive share, whether distributed or not, of the net income of the estate or trust for the taxable year, or, if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the estate or trust is computed, then his distributive share of the net income of the estate or trust for any accounting period of such estate or trust ending within the fiscal or calendar year upon the basis of which such beneficiary's net income is computed. In such cases the beneficiary shall, for the purpose of the normal tax, be allowed as credits in addition to the credits allowed to him under section 216, his proportionate share of such amounts specified in subdivisions (a) and (b) of section 216 as are received by the estate or trust. (Act Feb. 24, 1919, c. 18, § 219.)

Note.—§ 210 is now § 5522; § 211 is now § 5523; § 212 is now § 5524; § 214 is now § 5526; § 216 is now § 5528.

§ 5532. Profits of corporations taxable to stockholders.—If any corporation, however created or organized, is formed or availed of for the purpose of preventing the imposition of the surtax upon its stockholders or members through the medium of permitting its gains and profits to accumulate instead of being divided or distributed, such corporation shall not be subject to the tax imposed by section 230, but the stockholders or members thereof shall be subject to taxation under this title in the same manner as provided in subdivision (e) of section 218 in the case of stockholders of a personal service corporation, except that the tax imposed by Title III shall be deducted from the net income of the corporation before the computation of the proportionate share of each stockholder or member. The fact that any corporation is a mere holding company, or that the gains and profits are permitted to accumulate beyond the reasonable needs of the business, shall be prima facie evidence of a purpose to escape the surtax; but the fact that gains and profits are in any case permitted to accumulate and become surplus shall not be construed as evidence of a purpose to escape the tax in such case unless the Commissioner certifies that in his opinion such accumulation is unreasonable for the purposes of the business. When requested by the Commissioner, or any collector, every corporation shall forward to him a correct statement of such gains and profits and the names and addresses of the individuals or shareholders who would be entitled to the same if divided or distributed, and of the amounts that would be payable to each. (Act Feb. 24, 1919, c. 18, § 220.)

Note.—§ 218 is now § 5530; § 230 is now § 5541.

§ 5533. Payment of tax at source.—All individuals, corporations and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the United States, having the control, receipt, custody, disposal, or payment, of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, of any nonresident alien individual (other than income received as dividends from a corporation which is taxable under this title upon its net income) shall (except in the cases provided for in subdivision (b) and except as otherwise provided in regulations prescribed by the Commissioner under section 217) deduct and

withhold from such annual or periodical gains, profits, and income a tax equal to 8 per centum thereof: Provided, That the Commissioner may authorize such tax to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding agent.

(b) In any case where bonds, mortgages, or deeds of trust, or other similar obligations of a corporation contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed by this title upon the obligee, or to reimburse the obligee for any portion of the tax, or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon or to retain therefrom under any law of the United States, the obligor shall deduct and withhold a tax equal to 2 per centum of the interest upon such bonds, mortgages, deeds of trust, or other obligations, whether such interest is payable annually or at shorter or longer periods and whether payable to a nonresident alien individually or to an individual citizen or resident of the United States or to a partnership: Provided, That the Commissioner may authorize such tax to be deducted and withheld in the case of interest upon any such bonds, mortgages, deeds of trust or other obligations, the owners of which are not known to the withholding agent. Such deductions and withholding shall not be required in the case of a citizen or resident entitled to receive such interest, if he files with the withholding agent on or before February 1, a signed notice in writing claiming the benefit of the credits provided in subdivisions (c) and (d) of section 216; nor in the case of a nonresident alien individual if so provided for in regulations prescribed by the Commissioner under section 217.

(c) Every individual, corporation, or partnership required to deduct and withhold any tax under this section shall make return thereof on or before March first of each year and shall on or before June fifteenth pay the tax to the official of the United States Government authorized to receive it. Every such individual, corporation, or partnership is hereby made liable for such tax and is hereby indemnified against the claims and demands of any individual, corporation, or partnership for the amount of any payments made in accordance with the provisions of this section.

(d) Income upon which any tax is required to be withheld at the source under this section shall be included in the return of the recipient of such income, but any amount of tax so withheld shall be credited against the amount of income tax as computed in such return.

(e) If any tax required under this section to be deducted and withheld is paid by the recipient of the income, it shall not be re-collected from the withholding agent; nor in cases in which the tax is so paid shall any penalty be imposed upon or collected from the recipient of the income or the withholding agent for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment. (Act Feb. 24, 1919, c. 18, § 221.)

Note.—§ 216 is now § 5528; § 217 is now § 5529.

§ 5534. Credit for taxes paid.—(a) The tax computed under Part II of this title shall be credited with:

(1) In the case of a citizen of the United States, the amount of any income, war-profits and excess-profits taxes paid during the taxable year to any foreign country, upon income derived from sources therein, or to any possession of the United States; and

(2) In the case of a resident of the United States, the amount of any such taxes paid during the taxable year to any possession of the United States; and

(3) In the case of an alien resident of the United States who is a citizen or subject of a foreign country, the amount of any such taxes paid during the taxable year to such country, upon income derived from sources therein, if such country, in imposing such taxes, allows a similar credit to citizens of the United States residing in such country; and

(4) In the case of any such individual who is a member of a partnership or a beneficiary of an estate or trust, his proportionate share of such taxes of the partnership or the estate or trust paid during the taxable year to a foreign country or to any possession of the United States, as the case may be.

(b) If accrued taxes when paid differ from the amounts claimed as credits by the taxpayer, or if any tax paid is refunded in whole or in part, the

taxpayer shall notify the Commissioner who shall redetermine the amount of the tax due under Part II of this title for the year or years affected, and the amount of tax due upon such redetermination, if any, shall be paid by the taxpayer upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 252. In the case of such a tax accrued but not paid, the Commissioner as a condition precedent to the allowance of this credit may require the taxpayer to give a bond with sureties satisfactory to and to be approved by the Commissioner in such penal sum as the Commissioner may require, conditioned for the payment by the taxpayer of any amount of tax found due upon any such redetermination; and the bond herein prescribed shall contain such further conditions as the Commissioner may require.

(c) These credits shall be allowed only if the taxpayer furnishes evidence satisfactory to the Commissioner showing the amount of income derived from sources within such foreign country or such possession of the United States, and all other information necessary for the computation of such credits. (Act Feb. 24, 1919, c. 18, § 222.)

Note.—§ 252 is now § 5555.

§ 5535. Individual returns.—Every individual having a net income for the taxable year of \$1,000 or over if single or if married and not living with husband or wife, or of \$2,000 or over if married and living with husband or wife, shall make under oath a return stating specifically the items of his gross income and the deductions and credits allowed by this title. If a husband and wife living together have an aggregate net income of \$2,000 or over, each shall make such a return unless the income of each is included in a single joint return.

If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer. (Act Feb. 24, 1919, c. 18, § 223.)

§ 5536. Partnership returns.—Every partnership shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowed by this title, and shall include in the return the names and addresses of the individuals who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual. The return shall be sworn to by any one of the partners. (Act Feb. 24, 1919, c. 18, § 224.)

§ 5537. Fiduciary returns.—Every fiduciary (except receivers appointed by authority of law in possession of part only of the property of an individual) shall make under oath a return for the individual, estate or trust for which he acts (1) if the net income of such individual is \$1,000 or over if single or if married and not living with husband or wife, or \$2,000 or over if married and living with husband or wife, or (2) if the net income of such estate or trust is \$1,000 or over or if any beneficiary of such estate or trust is a nonresident alien, stating specifically the items of the gross income and the deductions and credits allowed by this title. Under such regulations as the Commissioner with the approval of the Secretary may prescribe, a return made by one of two or more joint fiduciaries and filed in the office of the collector of the district where such fiduciary resides shall be a sufficient compliance with the above requirement. The fiduciary shall make oath that he has sufficient knowledge of the affairs of such individual, estate or trust to enable him to make the return, and that the same is, to the best of his knowledge and belief, true and correct.

Fiduciaries required to make returns under this Act shall be subject to all the provisions of this Act which apply to individuals. (Act Feb. 24, 1919, c. 18, § 225.)

§ 5538. Returns when accounting period changed.—If a taxpayer, with the approval of the Commissioner, changes the basis of computing net income from fiscal year to calendar year a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December thirty-first. If the change is from calendar year to fiscal year, a separate return shall be made for the period between

the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year. If a taxpayer making his first return for income tax keeps his accounts on the basis of a fiscal year he shall make a separate return for the period between the beginning of the calendar year in which such fiscal year ends and the end of such fiscal year.

In all of the above cases the net income shall be computed on the basis of such period for which separate return is made, and the tax shall be paid thereon at the rate for the calendar year in which such period is included; and the credits provided in subdivisions (c) and (d) of section 216 shall be reduced respectively to amounts which bear the same ratio to the full credits provided in such subdivisions as the number of months in such period bears to twelve months. (Act Feb. 24, 1919, c. 18, § 226.)

Note.—§ 216 is now § 5528.

§ 5539. Time and place for filing returns.—(a) Returns shall be made on or before the fifteenth day of the third month following the close of the fiscal year, or, if the return is made on the basis of the calendar year, then the return shall be made on or before the fifteenth day of March. The Commissioner may grant a reasonable extension of time for filing returns whenever in his judgment good cause exists and shall keep a record of every such extension and the reason therefor. Except in the case of taxpayers who are abroad, no such extension shall be for more than six months.

(b) Returns shall be made to the collector for the district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in the United States, then to the collector at Baltimore, Maryland. (Act Feb. 24, 1919, c. 18, § 227.)

§ 5540. Understatement in returns.—If the collector or deputy collector has reason to believe that the amount of any income returned is understated, he shall give due notice to the taxpayer making the return to show cause why the amount of the return should not be increased, and upon proof of the amount understated, may increase the same accordingly. Such taxpayer may furnish sworn testimony to prove any relevant facts and if dissatisfied with the decision of the collector may appeal to the Commissioner for his decision, under such rules of procedure as may be prescribed by the Commissioner with the approval of the Secretary. (Act Feb. 24, 1919, c. 18, § 228.)

PART III.—CORPORATIONS.

§ 5541. Tax on corporations.—(a) In lieu of the taxes imposed by section 10 of the Revenue Act of 1916, as amended by the Revenue Act of 1917, and by section 4 of the Revenue Act of 1917, there shall be levied, collected, and paid for each taxable year upon the net income of every corporation a tax at the following rates:

(1) For the calendar year 1918, 12 per centum of the amount of the net income in excess of the credits provided in section 236; and

(2) For each calendar year thereafter, 10 per centum of such excess amount.

(b) For the purposes of the Act approved March 21, 1918, entitled "An Act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes," five-sixths of the tax imposed by paragraph (1) of subdivision (a) and four-fifths of the tax imposed by paragraph (2) of subdivision (a) shall be treated as levied by an Act in amendment of Title I of the Revenue Act of 1917. (Act Feb. 24, 1919, c. 18, § 230.)

Note.—§ 236 is now § 5547.

§ 5542. Conditional and other exemptions.—The following organizations shall be exempt from taxation under this title—

(1) Labor, agricultural, or horticultural organizations;

(2) Mutual savings banks not having a capital stock represented by shares;

(3) Fraternal beneficiary societies, orders, or associations, (a) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and (b) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

(4) Domestic building and loan associations and cooperative banks without capital stock organized and operated for mutual purposes and without profit;

(5) Cemetery companies owned and operated exclusively for the benefit of their members;

(6) Corporations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual;

(7) Business leagues, chambers of commerce, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private stockholder or individual;

(8) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare;

(9) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private stockholder or member;

(10) Farmers' or other mutual hail, cyclone, or fire insurance companies, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations of a purely local character, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting expenses;

(11) Farmers', fruit growers', or like associations, organized and operated as sales agents for the purpose of marketing the products of members and turning back to them the proceeds of sales, less the necessary selling expenses, on the basis of the quantity of produce furnished by them;

(12) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

(13) Federal land banks and national farm-loan associations as provided in section 26 of the Act approved July 17, 1916, entitled "An Act to provide capital for agricultural development, to create standard forms of investment based upon farm mortgages, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create Government depositaries and financial agents for the United States, and for other purposes";

(14) Personal service corporations. (Act Feb. 24, 1919, c. 18, § 231.)

§ 5543. Net income of corporations defined.—In the case of a corporation subject to the tax imposed by section 230 the term "net income" means the gross income as defined in section 233 less the deductions allowed by section 234, and the net income shall be computed on the same basis as is provided in subdivision (b) of section 212 or in section 226. (Act Feb. 24, 1919, c. 18, § 232.)

Note.—§ 212 is now § 5524; § 226 is now § 5538; § 230 is now § 5541; § 232 is now § 5543; § 233 is now § 5544; § 234 is now § 5545.

§ 5544. Gross income of corporations defined.—(a) In the case of a corporation subject to the tax imposed by section 230 the term "gross income" means the gross income as defined in section 213, except that:

(1) In the case of life insurance companies there shall not be included in gross income such portion of any actual premium received from any individual policyholder as is paid back or credited to or treated as an abatement of premium of such policyholder within the taxable year.

(2) Mutual marine insurance companies shall include in gross income the gross premiums collected and received by them less amounts paid for reinsurance.

(b) In the case of a foreign corporation gross income includes only the gross income from sources within the United States, including the interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, dividends from resident corporations, and including all

amounts received (although paid under a contract for the sale of goods or otherwise) representing profits on the manufacture and disposition of goods within the United States. (Act Feb. 24, 1919, c. 18, § 233.)

Note.—§ 213 is now § 5525; § 230 is now § 5541.

§ 5545. Deductions allowed.—(a) In computing the net income of a corporation subject to the tax imposed by section 230 there shall be allowed as deductions:

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity;

(2) All interest paid or accrued within the taxable year on its indebtedness, except on indebtedness incurred or continued to purchase or carry obligations or securities (other than obligations of the United States issued after September 24, 1917) the interest upon which is wholly exempt from taxation under this title as income to the taxpayer, or, in the case of a foreign corporation, the proportion of such interest which the amount of its gross income from sources within the United States bears to the amount of its gross income from all sources within and without the United States;

(3) Taxes paid or accrued within the taxable year imposed (a) by the authority of the United States, except income, war-profits and excess-profits taxes; or (b) by the authority of any of its possessions, except the amount of income, war-profits and excess-profits taxes allowed as a credit under section 238; or (c) by the authority of any State or Territory, or any county, school district, municipality, or other taxing subdivision of any State or Territory, not including those assessed against local benefits of a kind tending to increase the value of the property assessed; or (d) in the case of a domestic corporation, by the authority of any foreign country, except the amount of income, war-profits and excess-profits taxes allowed as a credit under section 238; or (e) in the case of a foreign corporation, by the authority of any foreign country (except income, war-profits and excess-profits taxes, and taxes assessed against local benefits of a kind tending to increase the value of the property assessed), upon the property or business: Provided, That in the case of obligors specified in subdivision (b) of section 221 no deduction for the payment of the tax imposed by this title or any other tax paid pursuant to the contract or provision referred to in that subdivision, shall be allowed;

(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise;

(5) Debts ascertained to be worthless and charged off within the taxable year;

(6) Amounts received as dividends from a corporation which is taxable under this title upon its net income, and amounts received as dividends from a personal service corporation out of earnings or profits upon which income tax has been imposed by Act of Congress;

(7) A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence;

(8) In the case of buildings, machinery, equipment, or other facilities, constructed, erected, installed, or acquired, on or after April 6, 1917, for the production of articles contributing to the prosecution of the present war, and in the case of vessels constructed or acquired on or after such date for the transportation of articles or men contributing to the prosecution of the present war, there shall be allowed a reasonable deduction for the amortization of such part of the cost of such facilities or vessels as has been borne by the taxpayer, but not again including any amount otherwise allowed under this title or previous Acts of Congress as a deduction in computing net income. At any time within three years after the termination of the present war the Commissioner may, and at the request of the taxpayer shall, reexamine the return, and if he then finds as a result of an appraisal or from other evidence that the deduction originally allowed was incorrect, the taxes imposed by this title and by Title III for the year or years affected shall be redetermined and the amount of tax due upon such

redetermination, if any, shall be paid upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 252;

(9) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case, based upon cost including cost of development not otherwise deducted: Provided, That in the case of such properties acquired prior to March 1, 1913, the fair market value of the property (or the taxpayer's interest therein) on that date shall be taken in lieu of cost up to that date: Provided further, That in the case of mines, oil and gas wells, discovered by the taxpayer, on or after March 1, 1913, and not acquired as the result of purchase of a proven tract or lease, where the fair market value of the property is materially disproportionate to the cost, the depletion allowance shall be based upon the fair market value of the property at the date of the discovery, or within thirty days thereafter; such reasonable allowance in all the above cases to be made under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary. In the case of leases the deductions allowed by this paragraph shall be equitably apportioned between the lessor and lessee;

(10) In the case of insurance companies, in addition to the above: (a) The net addition required by law to be made within the taxable year to reserve funds (including in the case of assessment insurance companies the actual deposit of sums with State or Territorial officers pursuant to law as additions to guarantee or reserve funds); and (b) the sums other than dividends paid within the taxable year on policy and annuity contract;

(11) In the case of corporations issuing policies covering life, health, and accident insurance combined in one policy issued on the weekly premium plan continuing for life and not subject to cancellation, in addition to the above, such portion of the net addition (not required by law) made within the taxable year to reserve funds as the Commissioner finds to be required for the protection of the holders of such policies only;

(12) In the case of mutual marine insurance companies, there shall be allowed, in addition to the deductions allowed in paragraphs (1) to (10), inclusive, amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment and the payment thereof;

(13) In the case of mutual insurance companies (other than mutual life or mutual marine insurance companies) requiring their members to make premium deposits to provide for losses and expenses, there shall be allowed, in addition to the deductions allowed in paragraphs (1) to (10), inclusive, (unless otherwise allowed under such paragraphs) the amount of premium deposits returned to their policyholders and the amount of premium deposits retained for the payment of losses, expenses, and reinsurance reserves;

(14) (a) At the time of filing return for the taxable year 1918 a taxpayer may file a claim in abatement based on the fact that he has sustained a substantial loss (whether or not actually realized by sale or other disposition) resulting from any material reduction (not due to temporary fluctuation) of the value of the inventory for such taxable year, or from the actual payment after the close of such taxable year of rebates in pursuance of contracts entered into during such year upon sales made during such year. In such case payment of the amount of the tax covered by such claim shall not be required until the claim is decided, but the taxpayer shall accompany his claim with a bond in double the amount of the tax covered by the claim, with sureties satisfactory to the Commissioner, conditioned for the payment of any part of such tax found to be due, with interest. If any part of such claim is disallowed then the remainder of the tax due shall on notice and demand by the collector be paid by the taxpayer with interest at the rate of 1 per centum per month from the time the tax would have been due had no such claim been filed. If it is shown to the satisfaction of the Commissioner that such substantial loss has been sustained, then in computing the taxes imposed by this title and by Title III the amount of such loss shall be deducted from the net income. (b) If no such claim is filed, but it is shown to the satisfaction of the Commissioner that during the taxable year 1919 the taxpayer has sustained a substantial loss of the character above described then the amount of

such loss shall be deducted from the net income for the taxable year 1918 and the taxes imposed by this title and by Title III for such year shall be redetermined accordingly. Any amount found to be due to the taxpayer upon the basis of such redetermination shall be credited or refunded to the taxpayer in accordance with the provisions of section 252.

(b) In the case of a foreign corporation the deductions allowed in subdivision (a), except those allowed in paragraph (2) and in clauses (a), (b), and (c) of paragraph (3), shall be allowed only if and to the extent that they are connected with income arising from a source within the United States; and the proper apportionment and allocation of the deductions with respect to sources of income within and without the United States shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary. (Act Feb. 24, 1919, c. 18, § 234.)

Note.—§ 221 is now § 5533; § 230 is now § 5541; § 239 is now § 5549; § 252 is now § 5555.

§ 5546. Items not deductible.—In computing net income no deduction shall in any case be allowed in respect of any of the items specified in section 215 (Act Feb. 24, 1919, c. 18, § 235.)

Note.—§ 215 is now § 5527.

§ 5547. General credits allowed.—For the purpose only of the tax imposed by section 230 there shall be allowed the following credits:

(a) The amount received as interest upon obligations of the United States and bonds issued by the War Finance Corporation, which is included in gross income under section 233;

(b) The amount of any taxes imposed by Title III for the same taxable year: Provided, That in the case of a corporation which makes return for a fiscal year beginning in 1917 and ending in 1918, in computing the tax as provided in subdivision (a) of section 205, the tax computed for the entire period under Title II of the Revenue Act of 1917 shall be credited against the net income computed for the entire period under Title I of the Revenue Act of 1916 as amended by the Revenue Act of 1917 and under Title I of the Revenue Act of 1917, and the tax computed for the entire period under Title III of this Act at the rates prescribed for the calendar year 1918 shall be credited against the net income computed for the entire period under this title; and

(c) In the case of a domestic corporation, \$2,000. (Act Feb. 24, 1919, c. 18, § 236.)

Note.—§ 205 is now § 5520; § 233 is now § 5544.

§ 5548. Payment of tax at source.—In the case of foreign corporations subject to taxation under this title not engaged in trade or business within the United States and not having any office or place of business therein, there shall be deducted and withheld at the source in the same manner and upon the same items of income as is provided in section 221 a tax equal to 10 per centum thereof, and such tax shall be returned and paid in the same manner and subject to the same conditions as provided in that section: Provided, That in the case of interest described in subdivision (b) of that section the deduction and withholding shall be at the rate of 2 per centum. (Act Feb. 24, 1919, c. 18, § 237.)

Note.—§ 221 is now § 5533.

§ 5549. Credit for taxes paid.—(a) In the case of a domestic corporation the total taxes imposed for the taxable year by this title and by Title III shall be credited with the amount of any income, war-profits and excess-profits taxes paid during the taxable year to any foreign country, upon income derived from sources therein, or to any possession of the United States.

If accrued taxes when paid differ from the amounts claimed as credits by the corporation, or if any tax paid is refunded in whole or in part, the corporation shall at once notify the Commissioner who shall redetermine the amount of the taxes due under this title and under Title III for the year or years affected, and the amount of taxes due upon such redetermination, if any, shall be paid by the corporation upon notice and demand by the collector, or the amount of taxes overpaid, if any, shall be credited or

refunded to the corporation in accordance with the provisions of section 252. In the case of such a tax accrued but not paid, the Commissioner as a condition precedent to the allowance of this credit may require the corporation to give a bond with sureties satisfactory to and to be approved by him in such penal sum as he may require, conditioned for the payment by the taxpayer of any amount of taxes found due upon any such redetermination; and the bond herein prescribed shall contain such further conditions as the Commissioner may require.

(b) This credit shall be allowed only if the taxpayer furnishes evidence satisfactory to the Commissioner showing the amount of income derived from sources within such foreign country or such possession of the United States, as the case may be, and all other information necessary for the computation of such credit.

(c) If a domestic corporation makes a return for a fiscal year beginning in 1917 and ending in 1918, only that proportion of this credit shall be allowed which the part of such period within the calendar year 1918 bears to the entire period. (Act Feb. 24, 1919, c. 18, § 238.)

Note.—§ 252 is now § 5555.

§ 5550. Corporation returns.—Every corporation subject to taxation under this title and every personal service corporation shall make a return, stating specifically the items of its gross income and the deductions and credits allowed by this title. The return shall be sworn to by the president, vice-president, or other principal officer and by the treasurer or assistant treasurer. If any foreign corporation has no office or place of business in the United States but has an agent in the United States, the return shall be made by the agent. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

Returns made under this section shall be subject to the provisions of sections 226 and 228. When return is made under section 226 the credit provided in subdivision (c) of section 236 shall be reduced to an amount which bears the same ratio to the full credit therein provided as the number of months in the period for which such return is made bears to twelve months. (Act Feb. 24, 1919, c. 18, § 239.)

Note.—§ 226 is now § 5538; § 228 is now § 5540; § 236 is now § 5547.

§ 5551. Consolidated returns.—(a) Corporations which are affiliated within the meaning of this section shall, under regulations to be prescribed by the Commissioner with the approval of the Secretary, make a consolidated return of net income and invested capital for the purposes of this title and Title III, and the taxes thereunder shall be computed and determined upon the basis of such return: Provided, That there shall be taken out of such consolidated net income and invested capital, the net income and invested capital of any such affiliated corporation organized after August 1, 1914, and not successor to a then existing business, 50 per centum or more of whose gross income consists of gains, profits, commissions, or other income, derived from a Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive. In such case the corporation so taken out shall be separately assessed on the basis of its own invested capital and net income and the remainder of such affiliated group shall be assessed on the basis of the remaining consolidated invested capital and net income.

In any case in which a tax is assessed upon the basis of a consolidated return, the total tax shall be computed in the first instance as a unit and shall then be assessed upon the respective affiliated corporations in such proportions as may be agreed upon among them, or, in the absence of any such agreement, then on the basis of the net income properly assignable to each. There shall be allowed in computing the income tax only one specific credit of \$2,000 (as provided in section 236); in computing the war-profits credit (as provided in section 311) only one specific exemption of \$3,000; and in computing the excess-profits credit (as provided in section 312) only one specific exemption of \$3,000.

(b) For the purpose of this section two or more domestic corporations shall be deemed to be affiliated (1) if one corporation owns directly or controls through closely affiliated interests or by a nominee or nominees substantially all the stock of the other or others, or (2) if substantially all the stock of two or more corporations is owned or controlled by the same interests.

(c) For the purposes of section 238 a domestic corporation which owns a majority of the voting stock of a foreign corporation shall be deemed to have paid the same proportion of any income, war-profits and excess-profits taxes paid (but not including taxes accrued) by such foreign corporation during the taxable year to any foreign country or to any possession of the United States upon income derived from sources without the United States, which the amount of any dividends (not deductible under section 234) received by such domestic corporation from such foreign corporation during the taxable year bears to the total taxable income of such foreign corporation upon or with respect to which such taxes were paid: Provided, That in no such case shall the amount of the credit for such taxes exceed the amount of such dividends (not deductible under section 234) received by such domestic corporation during the taxable year. (Act Feb. 24, 1919, c. 18, § 240.)

Note.—§ 234 is now § 5545; § 236 is now § 5547; § 238 is now § 5549; § 311 is now § 5572; § 312 is now § 5573.

§ 5552. Time and place for filing returns.—(a) Returns of corporations shall be made at the same time as is provided in subdivision (a) of section 227.

(b) Returns shall be made to the collector of the district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in the United States, then to the collector at Baltimore, Maryland. (Act Feb. 24, 1919, c. 18, § 241.)

PART IV.—ADMINISTRATIVE PROVISIONS.

§ 5553. Payment of taxes.—(a) Except as otherwise provided in this section and sections 221 and 237 the tax shall be paid in four installments, each consisting of one-fourth of the total amount of the tax. The first installment shall be paid at the time fixed by law for filing the return, and the second installment shall be paid on the fifteenth day of the third month, the third installment on the fifteenth day of the sixth month, and the fourth installment on the fifteenth day of the ninth month, after the time fixed by law for filing the return. Where an extension of time for filing a return is granted the time for payment of the first installment shall be postponed until the date of the expiration of the period of the extension, but the payment of the other installments shall not be postponed unless the Commissioner so provides in granting the extension. In any case in which the time for the payment of any installment is at the request of the taxpayer thus postponed, there shall be added as part of such installment interest thereon at the rate of $\frac{1}{2}$ of 1 per centum per month from the time it would have been due if no extension had been granted, until paid. If any installment is not paid when due, the whole amount of the tax unpaid shall become due and payable upon notice and demand by the collector.

The tax may at the option of the taxpayer be paid in a single payment instead of in installments, in which case the total amount shall be paid on or before the time fixed by law for filing the return, or, where an extension of time for filing the return has been granted, on or before the expiration of the period of such extension.

(b) As soon as practicable after the return is filed, the Commissioner shall examine it. If it then appears that the correct amount of the tax is greater or less than that shown in the return, the installments shall be recomputed. If the amount already paid exceeds that which should have been paid on the basis of the installments as recomputed, the excess so paid shall be credited against the subsequent installments; and if the amount already paid exceeds the correct amount of the tax, the excess shall be credited or refunded to the taxpayer in accordance with the provisions of section 252.

If the amount already paid is less than that which should have been paid, the difference shall, to the extent not covered by any credits then due to the taxpayer under section 252, be paid upon notice and demand by the collector. In such case if the return is made in good faith and the understatement of the amount in the return is not due to any fault of the taxpayer, there shall be no penalty because of such understatement. If the understatement is due to negligence on the part of the taxpayer, but without intent to defraud, there shall be added as part of the tax 5 per centum of the total amount of the deficiency, plus interest at the rate of 1 per centum per month on the amount of the deficiency of each installment from the time the installment was due.

If the understatement is false or fraudulent with intent to evade the tax, then, in lieu of the penalty provided in section 3176 of the Revised Statutes, as amended, for false or fraudulent returns willfully made, but in addition to other penalties provided by law for false or fraudulent returns, there shall be added as part of the tax 50 per centum of the amount of the deficiency.

(c) If the return is made pursuant to section 3176 of the Revised Statutes as amended, the amount of tax determined to be due under such return shall be paid upon notice and demand by the collector.

(d) Except in the case of false or fraudulent returns with intent to evade the tax, the amount of tax due under any return shall be determined and assessed by the Commissioner within five years after the return was due or was made, and no suit or proceeding for the collection of any tax shall be begun after the expiration of five years after the date when the return was due or was made. In the case of such false or fraudulent returns, the amount of tax due may be determined at any time after the return is filed, and the tax may be collected at any time after it becomes due.

(e) If any tax remains unpaid after the date when it is due, and for ten days after notice and demand by the collector, then, except in the case of estates of insane, deceased, or insolvent persons, there shall be added as part of the tax the sum of 5 per centum on the amount due but unpaid, plus interest at the rate of 1 per centum per month upon such amount from the time it became due: Provided, That as to any such amount which is the subject of a bona fide claim for abatement such sum of 5 per centum shall not be added and the interest from the time the amount was due until the claim is decided shall be at the rate of $\frac{1}{2}$ of 1 per centum per month.

In the case of the first installment provided for in subdivision (a) the instructions printed on the return shall be deemed sufficient notice of the date when the tax is due and sufficient demand, and the taxpayer's computation of the tax on the return shall be deemed sufficient notice of the amount due.

(f) In any case in which in order to enforce payment of a tax it is necessary for a collector to cause a warrant of distraint to be served, there shall also be added as part of the tax the sum of \$5.

(g) If the Commissioner finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect the tax for the taxable year then last past or the taxable year then current unless such proceedings be brought without delay, the Commissioner shall declare the taxable period for such taxpayer terminated at the end of the calendar or not the time otherwise allowed by law for filing return and paying the month then last past and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or so much of said tax as is unpaid, whether tax has expired; and such taxes shall thereupon become immediately due and payable. In any action or suit brought to enforce payment of taxes made due and payable by virtue of the provisions of this subdivision the finding of the Commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of the taxpayer's design. A taxpayer who is not in default in making any return or paying income, war-profits, or excess-profits tax under any Act of Congress may furnish to the United States, under regulations to be

prescribed by the Commissioner with the approval of the Secretary, security approved by the Commissioner that he will duly make the return next thereafter required to be filed and pay the tax next thereafter required to be paid. The Commissioner may approve and accept in like manner security for return and payment of taxes made due and payable by virtue of the provisions of this subdivision, provided the taxpayer has paid in full all other income, war-profits, or excess-profits taxes due from him under any Act of Congress. If security is approved and accepted pursuant to the provisions of this subdivision and such further or other security with respect to the tax or taxes covered thereby is given as the Commissioner shall from time to time find necessary and require, payment of such taxes shall not be enforced by any proceedings under the provisions of this subdivision prior to the expiration of the time otherwise allowed for paying such respective taxes. (Act Feb. 24, 1919, c. 18, § 250.)

Note.—§ 221 is now § 5533; § 237 is now § 5548; § 252 is now § 5555.

§ 5554. Receipts for taxes.—Every collector to whom any payment of any tax is made under the provisions of this title shall upon request give to the person making such payment a full written or printed receipt, stating the amount paid and the particular account for which such payment was made; and whenever any debtor pays taxes on account of payments made or to be made by him to separate creditors the collector shall, if requested by such debtor, give a separate receipt for the tax paid on account of each creditor in such form that the debtor can conveniently produce such receipts separately to his several creditors in satisfaction of their respective demands up to the amounts stated in the receipts; and such receipts shall be sufficient evidence in favor of such debtor to justify him in withholding from his next payment to his creditor the amount therein stated; but the creditor may, upon giving to his debtor a full written receipt acknowledging the payment to him of any sum actually paid and accepting the amount of tax paid as aforesaid (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such collector's receipt. (Act Feb. 24, 1919, c. 18, § 251.)

§ 5555. Refunds.—If, upon examination of any return of income made pursuant to this Act, the Act of August 5, 1909, entitled "An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," the Act of October 3, 1913, entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," the Revenue Act of 1916, as amended, or the Revenue Act of 1917, it appears that an amount of income, war-profits or excess-profits tax has been paid in excess of that properly due, then, notwithstanding the provisions of section 3228 of the Revised Statutes, the amount of the excess shall be credited against any income, war-profits or excess-profits taxes, or installment thereof, then due from the taxpayer under any other return, and any balance of such excess shall be immediately refunded to the taxpayer: Provided, That no such credit or refund shall be allowed or made after five years from the date when the return was due, unless before the expiration of such five years a claim therefor is filed by the taxpayer. (Act Feb. 24, 1919, c. 18, § 252.)

§ 5556. Penalties for offenses.—Any individual, corporation, or partnership required under this title to pay or collect any tax, to make a return or to supply information, who fails to pay or collect such tax, to make such return, or to supply such information at the time or times required under this title, shall be liable to a penalty of not more than \$1,000. Any individual, corporation, or partnership, or any officer or employee of any corporation or member or employee of a partnership, who willfully refuses to pay or collect such tax, to make such return, or to supply such information at the time or times required under this title, or who willfully attempts in any manner to defeat or evade the tax imposed by this title, shall be guilty of a misdemeanor and shall be fined not more than \$1,000 or imprisoned for not more than one year, or both, together with the costs of prosecution. (Act Feb. 24, 1919, c. 18, § 253.)

§ 5557. Returns of payments of dividends.—Every corporation subject to the tax imposed by this title and every personal service corporation shall,

when required by the Commissioner, render a correct return duly verified under oath, of its payments of dividends, stating the name and address of each stockholder, the number of shares owned by him, and the amount of dividends paid to him. (Act Feb. 24, 1919, c. 18, § 254.)

§ 5558. Returns of brokers.—Every individual, corporation, or partnership doing business as a broker shall, when required by the Commissioner, render a correct return duly verified under oath, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe, showing the names of customers for whom such individual, corporation, or partnership has transacted any business, with such details as to the profits, losses, or other information which the Commissioner may require, as to each of such customers, as will enable the Commissioner to determine whether all income tax due on profits or gains of such customers has been paid. (Act Feb. 24, 1919, c. 18, § 255.)

§ 5559. Information at source.—All individuals, corporations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, and employers, making payment to another individual, corporation, or partnership, of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments described in sections 254 and 255), of \$1,000 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Commissioner, under such regulations and in such form and manner and to such extent as may be prescribed by him with the approval of the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

Such returns may be required, regardless of amounts, (1) in the case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and (2) in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by individuals, corporations, or partnerships, undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

When necessary to make effective the provisions of this section the name and address of the recipient of income shall be furnished upon demand of the individual, corporation, or partnership paying the income.

The provisions of this section shall apply to the calendar year 1918 and each calendar year thereafter, but shall not apply to the payment of interest on obligations of the United States. (Act Feb. 24, 1919, c. 18, § 256.)

Note.—§ 254 is now § 5557; § 255 is now § 5558.

§ 5560. Returns to be public records.—Returns upon which the tax has been determined by the Commissioner shall constitute public records; but they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary and approved by the President: Provided, That the proper officers of any State imposing an income tax may, upon the request of the governor thereof, have access to the returns of any corporation, or to an abstract thereof showing the name and income of the corporation, at such times and in such manner as the Secretary may prescribe: Provided further, That all bona fide stockholders of record owning 1 per centum or more of the outstanding stock of any corporation shall, upon making request of the Commissioner, be allowed to examine the annual income returns of such corporation and its subsidiaries. Any stockholder who pursuant to the provisions of this section is allowed to examine the return of any corporation, and who makes known in any manner whatever not provided by law the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any such return, shall be guilty of a misdemeanor and be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both.

The Commissioner shall as soon as practicable in each year cause to be prepared and made available to public inspection in such manner as he may determine, in the office of the collector in each internal-revenue district and in such other places as he may determine, lists containing the names and the post-office addresses of all individuals making income-tax returns in such district. (Act Feb. 24, 1919, c. 18, § 257.)

§ 5561. Publication of statistics.—The Commissioner, with the approval of the Secretary, shall prepare and publish annually statistics reasonably available with respect to the operation of the income, war-profits and excess-profits tax laws, including classifications of taxpayers and of income, the amounts allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable. (Act Feb. 24, 1919, c. 18, § 258.)

§ 5562. Collection of foreign items.—All individuals, corporations, or partnerships undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner and shall be subject to such regulations enabling the Government to obtain the information required under this title as the Commissioner, with the approval of the Secretary, shall prescribe; and whoever knowingly undertakes to collect such payments without having obtained a license therefor, or without complying with such regulations, shall be guilty of a misdemeanor and shall be fined not more than \$5,000, or imprisoned for not more than one year, or both. (Act Feb. 24, 1919, c. 18, § 259.)

§ 5563. Citizens of United States possessions.—Any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States, shall be subject to taxation under this title only as to income derived from sources within the United States, and in such case the tax shall be computed and paid in the same manner and subject to the same conditions as in the case of other persons who are taxable only as to income derived from such sources. (Act Feb. 24, 1919, c. 18, § 260.)

§ 5564. Porto Rico and Philippine Islands.—In Porto Rico and the Philippine Islands the income tax shall be levied, assessed, collected, and paid in accordance with the provisions of the Revenue Act of 1916 as amended.

Returns shall be made and taxes shall be paid under Title I of such Act in Porto Rico or the Philippine Islands, as the case may be, by (1) every individual who is a citizen or resident of Porto Rico or the Philippine Islands or derives income from sources therein, and (2) every corporation created or organized in Porto Rico or the Philippine Islands or deriving income from sources therein. An individual who is neither a citizen nor a resident of Porto Rico or the Philippine Islands but derives income from sources therein, shall be taxed in Porto Rico or the Philippine Islands as a nonresident alien individual, and a corporation created or organized outside Porto Rico or the Philippine Islands and deriving income from sources therein shall be taxed in Porto Rico or the Philippine Islands as a foreign corporation. For the purposes of section 216 and of paragraph (6) of subdivision (a) of section 234 a tax imposed in Porto Rico or the Philippine Islands upon the net income of a corporation shall not be deemed to be a tax under this title.

The Porto Rican or Philippine Legislature shall have power by due enactment to amend, alter, modify, or repeal the income tax laws in force in Porto Rico or the Philippine Islands, respectively. (Act Feb. 24, 1919, c. 18, § 261.)

Note.—§ 216 is now § 5528; § 234 is now § 5545.

TITLE III.—WAR-PROFITS AND EXCESS-PROFITS TAX.

PART I.—GENERAL DEFINITIONS.

§ 5565. Meaning of terms.—When used in this title the terms "taxable year," "fiscal year," "personal service corporation," "paid or accrued," and "dividends" shall have the same meaning as provided for the purposes of income tax in sections 200 and 201. The first taxable year for the purposes of this title shall be the same as the first taxable year for the purposes of the income under Title II. (Act Feb. 24, 1919, c. 18, § 300.)

Note.—§ 200 is now § 5515; § 201 is now § 5516.

PART II.—IMPOSITION OF TAX.

§ 5566. Tax rates.—(a) In lieu of the tax imposed by Title II of the Revenue Act of 1917, but in addition to the other taxes imposed by this Act, there shall be levied, collected, and paid for the taxable year 1918 upon the net income of every corporation a tax equal to the sum of the following:

First Bracket.

30 per centum of the amount of the net income in excess of the excess-profits credit (determined under section 312) and not in excess of 20 per centum of the invested capital;

Second Bracket.

65 per centum of the amount of the net income in excess of 20 per centum of the invested capital;

Third Bracket.

The sum, if any, by which 80 per centum of the amount of the net income is excess of the war-profits credit (determined under section 311) exceeds the amount of the tax computed under the first and second brackets.

(b) For the taxable year 1919 and each taxable year thereafter there shall be levied, collected, and paid upon the net income of every corporation (except corporations taxable under subdivision (c) of this section) a tax equal to the sum of the following:

First Bracket.

20 per centum of the amount of the net income in excess of the excess-profits credit (determined under section 312) and not in excess of 20 per centum of the invested capital;

Second Bracket.

40 per centum of the amount of the net income in excess of 20 per centum of the invested capital.

(c) For the taxable year 1919 and each taxable year thereafter there shall be levied, collected (and paid upon the net income of every corporation which derives in such year a net income of more than \$10,000 from any Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive, a tax equal to the sum of the following:

(1) Such a portion of a tax computed at the rates specified in subdivision (a) as the part of the net income attributable to such Government contract or contracts bears to the entire net income. In computing such tax the excess-profits credit and the war-profits credit applicable to the taxable year shall be used;

(2) Such a portion of a tax computed at the rates specified in subdivision (b) as the part of the net income not attributable to such Government contract or contracts bears to the entire net income.

For the purpose of determining the part of the net income attributable to such Government contract or contracts, the proper apportionment and allocation of the deductions with respect to gross income derived from such Government contract or contracts and from other sources, respectively, shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(d) In any case where the full amount of the excess-profit credit is not allowed under the first bracket of subdivision (a) or (b), by reason of the fact that such credit is in excess of 20 per centum of the invested capital, the part not so allowed shall be deducted from the amount in the second bracket.

(e) For the purposes of the Act approved March 21, 1918, entitled "An Act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes," the tax imposed by this title shall be treated as levied by an Act in amendment of Title II of the Revenue Act of 1917. (Act Feb. 24, 1919, c. 18, § 301.)

Note.—§ 311 is now § 5572; § 312 is now § 5573.

§ 5567. Same: limitations.—The tax imposed by subdivision (a) of section 301, shall in no case be more than 30 per centum of the amount of the net income in excess of \$3,000 and not in excess of \$20,000, plus 80 per centum of the amount of the net income in excess of \$20,000; the tax imposed by subdivision (b) of section 301 shall in no case be more than 20 per centum of the amount of the net income in excess of \$3,000 and not in excess of \$20,000, plus 40 per centum of the amount of the net income in excess of \$20,000; and the above limitations shall apply to the taxes computed under subdivisions (a) and (b) of section 301, respectively, when used in subdivision (c) of that section. Nothing in this section shall be construed in such manner as to increase the tax imposed by section 301. (Act Feb. 24, 1919, c. 18, § 302.)

Note.—§ 301 is now § 5566.

§ 5568. Income from separate trades or enterprises.—If part of the net income of a corporation is derived (1) from a trade or business (or a branch of a trade or business) in which the employment of capital is necessary, and (2) a part (constituting not less than 30 per centum of its total net income) is derived from a separate trade or business (or a distinctly separate branch of the trade or business) which if constituting the sole trade or business would bring it within the class of "personal service corporations," then (under regulations prescribed by the Commissioner with the approval of the Secretary) the tax upon the first part of such net income shall be separately computed (allowing in such computation only the same proportionate part of the credits authorized in sections 311 and 312), and the tax upon the second part shall be the same percentage thereof as the tax so computed upon the first part is of such first part: Provided, That the tax upon such second part shall in no case be less than 20 per centum thereof, unless the tax upon the entire net income, if computed without benefit of this section, would constitute less than 20 per centum of such entire net income, in which event the tax shall be determined upon the entire net income, without reference to this section, as other taxes are determined under this title. The total tax computed under this section shall be subject to the limitations provided in section 302. (Act Feb. 24, 1919, c. 18, § 303.)

Note.—§ 302 is now § 5567; § 311 is now § 5572; § 312 is now § 5573.

§ 5569. Exemptions.—(a) The corporations enumerated in section 231 shall, to the extent that they are exempt from income tax under Title II, be exempt from taxation under this title.

(b) Any corporation whose net income for the taxable year is less than \$3,000 shall be exempt from taxation under this title.

(c) In the case of any corporation engaged in the mining of gold, the portion of the net income derived from the mining of gold shall be exempt from the tax imposed by this article, and the tax on the remaining portion of the net income shall be the proportion of a tax computed without the benefit of this subdivision which such remaining portion of the net income bears to the entire net income. (Act Feb. 24, 1919, c. 18, § 304.)

Note.—§ 231 is now § 5542.

§ 5570. Same: taxable period of less than one year.—If a tax is computed under this title for a period of less than twelve months, the specific exemption of \$3,000, wherever referred to in this title, shall be reduced to an amount which is the same proportion of \$3,000 as the number of months in the period is of twelve months. (Act Feb. 24, 1919, c. 18, § 305.)

PART III.—CREDITS.

§ 5571. Definition of "prewar period."—As used in this title the term "prewar period" means the calendar years 1911, 1912, and 1913, or, if a corporation was not in existence during the whole of such period, then as many of such years during the whole of which the corporation was in existence. (Act Feb. 24, 1919, c. 18, § 310.)

§ 5572. War-profits credit.—(a) The war-profits credit shall consist of the sum of:

- (1) A specific exemption of \$3,000; and

(2) An amount equal to the average net income of the corporation for the prewar period, plus or minus, as the case may be, 10 per centum of the difference between the average invested capital for the prewar period and the invested capital for the taxable year. If the tax is computed for a period of less than twelve months such amount shall be reduced to the same proportions thereof as the number of months in the period is of twelve months.

(b) If the corporation had no net income for the prewar period, or if the amount computed under paragraph (2) of subdivision (a) is less than 10 per centum of its invested capital for the taxable year, then the war-profits credit shall be the sum of:

(1) A specific exemption of \$3,000; and

(2) An amount equal to 10 per centum of the invested capital for the taxable year.

(c) If the corporation was not in existence during the whole of at least one calendar year during the prewar period, then, except as provided in subdivision (d), the war-profits credit shall be the sum of:

(1) A specific exemption of \$3,000; and

(2) An amount equal to the same percentage of the invested capital of the taxpayer for the taxable year as the average percentage of net income to invested capital, for the prewar period, of corporations engaged in a trade or business of the same general class as that conducted by the taxpayer; but such amount shall in no case be less than 10 per centum of the invested capital of the taxpayer for the taxable year. Such average percentage shall be determined by the Commissioner on the basis of data contained in returns made under Title II of the Revenue Act of 1917, and the average known as the median shall be used. If such average percentage has not been determined and published at least 30 days prior to the time when the return of the taxpayer is due, then for purposes of such return 10 per centum shall be used in lieu thereof; but such average percentage when determined shall be used for the purposes of section 250 in determining the correct amount of the tax.

(d) The war-profits credit shall be determined in the manner provided in subdivision (b) instead of in the manner provided in subdivision (c), in the case of any corporation which was not in existence during the whole of at least one calendar year during the prewar period, if (1) a majority of its stock at any time during the taxable year is owned or controlled, directly or indirectly, by a corporation which was in existence during the whole of at least one calendar year during the prewar period, or if (2) 50 per centum or more of its gross income (as computed under section 233 for income tax purposes) consists of gains, profits, commissions, or other income, derived from a government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive.

(e) A foreign corporation shall not be entitled to a specific exemption of \$3,000. (Act Feb. 24, 1919, c. 18, § 311.)

Note.—§ 233 is now § 5514; § 250 is now § 5553.

§ 5573. Excess-profits credit; foreign corporations.—The excess-profits credit shall consist of a specific exemption of \$3,000 plus an amount equal to 8 per centum of the invested capital for the taxable year.

A foreign corporation shall not be entitled to the specific exemption of \$3,000. (Act Feb. 24, 1919, c. 18, § 312.)

PART IV.—NET INCOME.

§ 5574. Ascertainment and return of net income.—(a) For the purpose of this title the net income of a corporation shall be ascertained and returned—

(1) For the calendar years 1911 and 1912 upon the same basis and in the same manner as provided in section 38 of the Act entitled "An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, except that taxes imposed by such section and paid by the corporation within the year shall be included;

(2) For the calendar year 1913 upon the same basis and in the same manner as provided in Section II of the Act entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other

purposes," approved October 3, 1913, except that taxes imposed by section 38 of such Act of August 5, 1909, and paid by the corporation within the year shall be included, and except that the amounts received by it as dividends upon the stock or from the net earnings of other corporations subject to the tax imposed by Section II of such Act of October 3, 1913, shall be deducted; and

(3) For the taxable year upon the same basis and in the same manner as provided for income tax purposes in Title II of this Act.

(b) The average net income for the prewar period shall be determined by dividing the number of years within that period during the whole of which the corporation was in existence into the sum of the net income for such years, even though there may have been no net income for one or more of such years. (Act Feb. 24, 1919, c. 18, § 320.)

PART V.—INVESTED CAPITAL.

§ 5575. Definitions; stock issued at nominal value or having no par value.

—(a) As used in this title—

The term "intangible property" means patents, copyrights, secret processes and formulae, good will, trade-marks, trade-brands, franchises, and other like property;

The term "tangible property" means stocks, bonds, notes, and other evidences of indebtedness, bills and accounts receivable, leaseholds, and other property other than intangible property;

The term "borrowed capital" means money or other property borrowed, whether represented by bonds, notes, open accounts, or otherwise;

The term "inadmissible assets" means stocks, bonds, and other obligations (other than obligations of the United States), the dividends or interest from which is not included in computing net income, but where the income derived from such assets consists in part of gain or profit derived from the sale or other disposition thereof, or where all or part of the interest derived from such assets is in effect included in the net income because of the limitation on the deduction of interest under paragraph (2) of subdivision (a) of section 234, a corresponding part of the capital invested in such assets shall not be deemed to be inadmissible assets;

The term "admissible assets" means all assets other than inadmissible assets, valued in accordance with the provisions of subdivision (a) of section 326, section 330, and section 331.

(b) For the purposes of this title, the par value of stock or shares shall, in the case of stock or shares issued at a nominal value or having no par value, be deemed to be the fair market value as of the date or dates of issue of such stock or shares. (Act Feb. 24, 1919, c. 18, § 325.)

Note.—§ 234 is now § 5545; § 326 is now § 5576; § 330 is now § 5579; § 331 is now § 5580.

§ 5576. What constitutes invested capital; computation.—(a) As used in this title the term "invested capital" for any year means (except as provided in subdivisions (b) and (c) of this section):

(1) Actual cash bona fide paid in for stock or shares;

(2) Actual cash value of tangible property, other than cash, bona fide paid in for stock or shares, at the time of such payment, but in no case to exceed the par value of the original stock or shares specifically issued therefor, unless the actual cash value of such tangible property at the time paid in is shown to the satisfaction of the Commissioner to have been clearly and substantially in excess of such par value, in which case such excess shall be treated as paid-in surplus: Provided, That the Commissioner shall keep a record of all cases in which tangible property is included in invested capital at a value in excess of the stock or shares issued therefor, containing the name and address of each taxpayer, the business in which engaged, the amount of invested capital and net income shown by the return, the value of the tangible property at the time paid in, the par value of the stock or shares specifically issued therefor, and the amount included under this paragraph as paid-in surplus. The Commissioner shall furnish a copy of such record and other detailed information with respect to such cases when required by resolution of either House of Congress, without regard to the restrictions contained in section 257;

(3) Paid-in or earned surplus and undivided profits; not including surplus and undivided profits earned during the year;

(4) Intangible property bona fide paid in for stock or shares prior to March 3, 1917, in an amount not exceeding (a) the actual cash value of such property at the time paid in, (b) the par value of the stock or shares issued therefor, or (c) in the aggregate 25 per centum of the par value of the total stock or shares of the corporation outstanding on March 3, 1917, which ever is lowest;

(5) Intangible property bona fide paid in for stock or shares on or after March 3, 1917, in an amount not exceeding (a) the actual cash value of such property at the time paid in, (b) the par value of the stock or shares issued therefor, or (c) in the aggregate 25 per centum of the par value of the total stock or shares of the corporation outstanding at the beginning of the taxable year, whichever is lowest: Provided, That in no case shall the total amount included under paragraphs (4) and (5) exceed in the aggregate 25 per centum of the par value of the total stock or shares of the corporation outstanding at the beginning of the taxable year; but

(b) As used in this title the term "invested capital" does not include borrowed capital.

(c) There shall be deducted from invested capital as above defined a percentage thereof equal to the percentage which the amount of inadmissible assets is of the amount of admissible and inadmissible assets held during the taxable year.

(d) The invested capital for any period shall be the average invested capital for such period, but in the case of a corporation making a return for a fractional part of a year, it shall (except for the purpose of paragraph (2) of subdivision (a) of section 311) be the same fractional part of such average invested capital.

The average invested capital for the prewar period shall be determined by dividing the number of years within that period during the whole of which the corporation was in existence into the sum of the average invested capital for such years. (Act Feb. 24, 1919, c. 18, § 326.)

Note.—§ 257 is now § 5560; § 311 is now § 5572.

§ 5577. Inability of Commissioner to determine invested capital; foreign corporations; mixture of tangible and intangible property; abnormal conditions working exceptional hardship on taxpayer.—In the following cases the tax shall be determined as provided in section 328:

(a) Where the Commissioner is unable to determine the invested capital as provided in section 326;

(b) In the case of a foreign corporation;

(c) Where a mixed aggregate of tangible property and intangible property has been paid in for stock or for stock and bonds and the Commissioner is unable satisfactorily to determine the respective values of the several classes of property at the time of payment, or to distinguish the classes of property paid in for stock and for bonds, respectively;

(d) Where upon application by the corporation the Commissioner finds and so declares of record that the tax if determined without benefit of this section would, owing to abnormal conditions affecting the capital or income of the corporation, work upon the corporation an exceptional hardship evidenced by gross disproportion between the tax computed without benefit of this section and the tax computed by reference to the representative corporations specified in section 328. This subdivision shall not apply to any case (1) in which the tax (computed without benefit of this section) is high merely because the corporation earned within the taxable year a high rate of profit upon a normal invested capital, nor (2) in which 50 per centum or more of the gross income of the corporation for the taxable year (computed under section 233 of Title II) consists of gains, profits, commissions, or other income, derived on a cost-plus basis from a Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive. (Act Feb. 24, 1919, c. 18, § 327.)

Note.—§ 233 is now § 5544; § 326 is now § 5576; § 328 is now § 5578.

§ 5578. Computation and record of tax under preceding section.—(a) In the cases specified in section 327 the tax shall be the amount which bears the same ratio to the net income of the taxpayer (in excess of the specific

exemption of \$3,000) for the taxable year, as the average tax of representative corporations engaged in a like or similar trade or business, bears to their average net income (in excess of the specific exemption of \$3,000) for such year. In the case of a foreign corporation the tax shall be computed without deducting the specific exemption of \$3,000 either for the taxpayer or the representative corporations.

In computing the tax under this section the Commissioner shall compare the taxpayer only with representative corporations whose invested capital can be satisfactorily determined under section 326 and which are, as nearly as may be, similarly circumstanced with respect to gross income, net income, profits per unit of business transacted and capital employed, the amount and rate of war profits or excess profits, and all other relevant facts and circumstances.

(b) For the purposes of subdivision (a) the ratios between the average tax and the average income of representative corporations shall be determined by the Commissioner in accordance with regulations prescribed by him with the approval of the Secretary.

In cases in which the tax is to be computed under this section, if the tax as computed without the benefit of this section is less than 50 per centum of the net income of the taxpayer, the installments shall in the first instance be computed upon the basis of such tax, but if the tax so computed is 50 per centum or more of the net income, the installments shall in the first instance be computed upon the basis of a tax equal to 50 per centum of the net income. In any case, the actual ratio when ascertained shall be used in determining the correct amount of the tax. If the correct amount of the tax when determined exceeds 50 per centum of the net income, any excess of the correct installments over the amounts actually paid shall on notice and demand be paid together with interest at the rate of $\frac{1}{2}$ of 1 per centum per month on such excess from the time the installment was due.

(c) The Commissioner shall keep a record of all cases in which the tax is determined in the manner prescribed in subdivision (a), containing the name and address of each taxpayer, the business in which engaged, the amount of invested capital and net income shown by the return, and the amount of invested capital as determined under such subdivision. The Commissioner shall furnish a copy of such record and other detailed information with respect to such cases when required by resolution of either House of Congress, without regard to the restrictions contained in section 257. (Act Feb. 24, 1919, c. 18, § 328.)

Note.—§ 257 is now § 5560; § 326 is now § 5576; § 327 is now § 5577.

PART VI.—REORGANIZATIONS.

§ 5579. Net income and invested capital in cases of reorganization.—In the case of reorganization, consolidation, or change of ownership after January 1, 1911, of a trade or business now carried on by a corporation, the corporation shall for the purposes of this title be deemed to have been in existence prior to that date, and the net income and invested capital of such predecessor trade or business for all or any part of the prewar period prior to the organization of the corporation now carrying on such trade or business shall be deemed to have been the net income and invested capital of such corporation.

If such predecessor trade or business was carried on by a partnership or individual the net income for the prewar period shall, under regulations prescribed by the Commissioner with the approval of the Secretary, be ascertained and returned as nearly as may be upon the same basis and in the same manner as provided for corporations in Title II, including a reasonable deduction for salary or compensation to each partner or the individual for personal services actually rendered.

In the case of the organization as a corporation before July 1, 1919, of any trade or business in which capital is a material income-producing factor and which was previously owned by a partnership or individual, the net income of such trade or business from January 1, 1918, to the date of such reorganization may at the option of the individual or partnership

be taxed as the net income of a corporation is taxed under Titles II and III; in which event the net income and invested capital of such trade or business shall be computed as if such corporation had been in existence on and after January 1, 1918, and the undistributed profits or earnings of such trade or business shall not be subject to the surtax imposed in section 211, but amounts distributed on or after January 1, 1918, from the earnings of such trade or business shall be taxed to the recipients as dividends, and all the provisions of Titles II and III relating to corporations shall so far as practicable apply to such trade or business: Provided, That this paragraph shall not apply to any trade or business the net income of which for the taxable year 1918 was less than 20 per centum of its invested capital for such year: Provided further, That any taxpayer who takes advantage of this paragraph shall pay the tax imposed by section 1000 of this Act and by first subdivision of section 407 of the Revenue Act of 1916, as if such taxpayer had been a corporation on and after January 1, 1918, with a capital stock having no par value.

If any asset of the trade or business in existence both during the taxable year and any prewar year is included in the invested capital for the taxable year but is not included in the invested capital for such prewar year, or is valued on a different basis in computing the invested capital for the taxable year and such prewar year, respectively, then under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary such readjustments shall be made as are necessary to place the computation of the invested capital for such prewar year on the basis employed in determining the invested capital for the taxable year. (Act Feb. 24, 1919, c. 18, § 330.)

•Note.—§ 211 is now § 5523.

§ 5580. Where half or greater interest in business retained by former owners.—In the case of the reorganization, consolidation, or change of ownership of property, after March 3, 1917, if an interest or control in such trade or business or property of 50 per centum or more remains in the same persons, or any of them, then no asset transferred or received from the previous owner shall, for the purpose of determining invested capital, be allowed a greater value than would have been allowed under this title in computing the invested capital of such previous owner if such asset had not been so transferred or received: Provided, That if such previous owner was not a corporation, then the value of any asset so transferred or received shall be taken at its cost of acquisition (at the date when acquired by such previous owner) with proper allowance for depreciation, impairment, betterment or development, but no addition to the original cost shall be made for any charge or expenditure deducted as expense or otherwise on or after March 1, 1913, in computing the net income of such previous owner for purposes of taxation. (Act Feb. 24, 1919, c. 18, § 331.)

PART VII.—MISCELLANEOUS.

§ 5581. Corporate returns for particular fiscal years; refund to partnerships or personal-service corporations of taxes paid for period beginning within year 1918.—(a) If a corporation (other than a personal-service corporation) makes return for a fiscal year beginning in 1917 and ending in 1918, the tax for the first taxable year under this title shall be the sum of: (1) the same proportion of a tax for the entire period computed under Title II of the Revenue Act of 1917 which the portion of such period falling within the calendar year 1917 is of the entire period, and (2) the same proportion of a tax for the entire period computed under this title at the rates specified in subdivision (a) of section 301 which the portion of such period falling within the calendar year 1918 is of the entire period. Any amount heretofore or hereafter paid on account of the tax imposed for such fiscal year by Title II of the Revenue Act of 1917 shall be credited toward the payment of the tax imposed for such fiscal year by this title, and if the amount so paid exceeds the amount of the tax imposed by this title, the excess shall be credited or refunded to the corporation in accordance with the provisions of section 252.

(b) If a corporation makes return for a fiscal year beginning in 1918 and ending in 1919, the tax for such fiscal year under this title shall be

the sum of: (1) the same proportion of a tax for the entire period computed under subdivision (a) of section 301 which the portion of such period falling within the calendar year 1918 is of the entire period, and (2) the same proportion of a tax for the entire period computed under subdivision (b) or (c) of section 301 which the portion of such period falling within the calendar year 1919 is of the entire period.

(c) If a partnership or a personal service corporation makes return for a fiscal year beginning in 1917 and ending in 1918, it shall pay the same proportion of a tax for the entire period computed under Title II of the Revenue Act of 1917 which the portion of such period falling within the calendar year 1917 is of the entire period.

Any tax paid by a partnership or personal service corporation for any period beginning on or after January 1, 1918, shall be immediately refunded to the partnership or corporation as a tax erroneously or illegally collected. (Act Feb. 24, 1919, c. 18, § 335.)

Note.—§ 252 is now § 5555; § 301 is now § 5566.

§ 5582. Time for return and payment; by what corporations made.—Every corporation, not exempt under section 304, shall make a return for the purposes of this title. Such returns shall be made, and the taxes imposed by this title shall be paid, at the same times and places, in the same manner, and subject to the same conditions, as is provided in the case of returns and payment of income tax by corporations for the purposes of Title II, and all the provisions of that title not inapplicable, including penalties, are hereby made applicable to the taxes imposed by this title. (Act Feb. 24, 1919, c. 18, § 336.)

Note.—§ 304 is now § 5569.

§ 5583. Amount of tax attributable to sale of minerals.—In the case of a bona fide sale of mines, oil or gas wells, or any interest therein, where the principal value of the property has been demonstrated by prospecting or exploration and discovery work done by the taxpayer, the portion of the tax imposed by this title attributable to such sale shall not exceed 20 per centum of the selling price of such property or interest. (Act Feb. 24, 1919, c. 18, § 337.)

TITLE IV.—ESTATE TAX.

§ 5584. Definitions.—When used in this title—

The term "executor" means the executor or administrator of the decedent, or, if there is no executor or administrator, any person who takes possession of any property of the decedent; and

The term "collector" means the collector of internal revenue of the district in which was the domicile of the decedent at the time of his death, or, if there was no such domicile in the United States, then the collector of the district in which is situated the part of the gross estate of the decedent in the United States, or, if such part of the gross estate is situated in more than one district, then the collector of internal revenue of such district as may be designated by the Commissioner. (Act Feb. 24, 1919, c. 18, § 400.)

§ 5585. Rate of tax.—That (in lieu of the tax imposed by Title II of the Revenue Act of 1916, as amended, and in lieu of the tax imposed by Title IX of the Revenue Act of 1917) a tax equal to the sum of the following percentages of the value of the net estate (determined as provided in section 403) is hereby imposed upon the transfer of the net estate of every decedent dying after the passage of this Act, whether a resident or non-resident of the United States:

- 1 per centum of the amount of the net estate not in excess of \$50,000;
- 2 per centum of the amount by which the net estate exceeds \$50,000 and does not exceed \$150,000;
- 3 per centum of the amount by which the net estate exceeds \$150,000 and does not exceed \$250,000;
- 4 per centum of the amount by which the net estate exceeds \$250,000 and does not exceed \$450,000;
- 6 per centum of the amount by which the net estate exceeds \$450,000 and does not exceed \$750,000;

8 per centum of the amount by which the net estate exceeds \$750,000 and does not exceed \$1,000,000;

10 per centum of the amount by which the net estate exceeds \$1,000,000 and does not exceed \$1,500,000;

12 per centum of the amount by which the net estate exceeds \$1,500,000 and does not exceed \$2,000,000;

14 per centum of the amount by which the net estate exceeds \$2,000,000 and does not exceed \$3,000,000;

16 per centum of the amount by which the net estate exceeds \$3,000,000 and does not exceed \$4,000,000;

18 per centum of the amount by which the net estate exceeds \$4,000,000 and does not exceed \$5,000,000;

20 per centum of the amount by which the net estate exceeds \$5,000,000 and does not exceed \$8,000,000;

22 per centum of the amount by which the net estate exceeds \$8,000,000 and does not exceed \$10,000,000; and

25 per centum of the amount by which the net estate exceeds \$10,000,000.

The taxes imposed by this title or by Title II of the Revenue Act of 1916 (as amended by the Act entitled "An Act to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy and the extensions of fortifications, and for other purposes," approved March 3, 1917) or by Title IX of the Revenue Act of 1917, shall not apply to the transfer of the net estate of any decedent who has died or may die while serving in the military or naval forces of the United States in the present war or from injuries received or disease contracted while in such service, and any such tax collected upon such transfer shall be refunded to the executor. (Act Feb. 24, 1919, c. 18, § 401.)

Note.—§ 403 is now § 5587.

§ 5586. Determination of value of gross estate.—The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated—

(a) To the extent of the interest therein of the decedent at the time of his death which after his death is subject to the payment of the charges against his estate and the expenses of its administration and is subject to distribution as part of his estate;

(b) To the extent of any interest therein of the surviving spouse, existing at the time of the decedent's death as dower, courtesy, or by virtue of a statute creating an estate in lieu of dower or courtesy;

(c) To the extent of any interest therein of which the decedent has at any time made a transfer, or with respect to which he has at any time created a trust, in contemplation of or intended to take effect in possession or enjoyment at or after his death (whether such transfer or trust is made or created before or after the passage of this Act), except in case of a bona fide sale for a fair consideration in money or money's worth. Any transfer of a material part of his property in the nature of a final disposition or distribution thereof, made by the decedent within two years prior to his death without such a consideration, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this title;

(d) To the extent of the interest therein held jointly or as tenants in the entirety by the decedent and any other person, or deposited in banks or other institutions in their joint names and payable to either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and never to have belonged to the decedent;

(e) To the extent of any property passing under a general power of appointment exercised by the decedent (1) by will, or (2) by deed executed in contemplation of, or intended to take effect in possession or enjoyment at or after, his death, except in case of a bona fide sale for a fair consideration in money or money's worth; and

(f) To the extent of the amount receivable by the executor as insurance under policies taken out by the decedent upon his own life; and to the extent of the excess over \$40,000 of the amount receivable by all other beneficiaries as insurance under policies taken out by the decedent upon his own life. (Act Feb. 24, 1919, c. 18, § 402.)

§ 5587. Determination of value of net estate; nonresident decedents; deductions.—For the purpose of the tax the value of the net estate shall be determined—

(a) In the case of a resident, by deducting from the value of the gross estate—

(1) Such amounts for funeral expenses, administration expenses, claims against the estate, unpaid mortgages, losses incurred during the settlement of the estate arising from fires, storms, shipwreck, or other casualty, or from theft, when such losses are not compensated for by insurance or otherwise, and such amounts reasonably required and actually expended for the support during the settlement of the estate of those dependent upon the decedent, as are allowed by the laws of the jurisdiction, whether within or without the United States, under which the estate is being administered, but not including any income taxes upon income received after the death of the decedent, or any estate, succession, legacy, or inheritance taxes;

(2) An amount equal to the value at the time of the decedent's death of any property, real, personal, or mixed, which can be identified as having been received by the decedent as a share in the estate of any person who died within five years prior to the death of the decedent, or which can be identified as having been acquired by the decedent in exchange for property so received, if an estate tax under the Revenue Act of 1917 or under this Act was collected from such estate, and if such property is included in the decedent's gross estate;

(3) The amount of all bequests, legacies, devises, or gifts, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to a trustee or trustees exclusively for such religious, charitable, scientific, literary, or educational purposes. This deduction shall be made in case of the estates of all decedents who have died since December 31, 1917; and

(4) An exemption of \$50,000;

(b) In the case of a nonresident, by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States—

(1) That proportion of the deductions specified in paragraph (1) of subdivision (a) of this section which the value of such part bears to the value of his entire gross estate, wherever situated, but in no case shall the amount so deducted exceed 10 per centum of the value of that part of his gross estate which at the time of his death is situated in the United States;

(2) An amount equal to the value at the time of the decedent's death of any property, real, personal, or mixed, which can be identified as having been received by the decedent as a share in the estate of any person who died within five years prior to the death of the decedent, or which can be identified as having been acquired by the decedent in exchange for property so received, if an estate tax under the Revenue Act of 1917 or under this Act was collected from such estate, and if such property is included in that part of the decedent's gross estate which at the time of his death is situated in the United States; and

(3) The amount of all bequests, legacies, devises, or gifts, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to a trustee or trustees exclusively for such religious, charitable, scientific, literary, or educational purposes within the United States. This deduction shall be made in case of the estates of all decedents who have died since December 31, 1917; and

No deduction shall be allowed in the case of a non-resident unless the executor includes in the return required to be filed under section 404 the

value at the time of his death of that part of the gross estate of the non-resident not situated in the United States.

For the purpose of this title stock in a domestic corporation owned and held by a nonresident decedent, and the amount receivable as insurance upon the life of a nonresident decedent where the insurer is a domestic corporation, shall be deemed property within the United States, and any property of which the decedent has made a transfer or with respect to which he has created a trust, within the meaning of subdivision (c) of section 402, shall be deemed to be situated in the United States, if so situated either at the time of the transfer or the creation of the trust, or at the time of the decedent's death.

In the case of any estate in respect to which the tax under existing law has been paid, if necessary to allow the benefit of the deduction under paragraph (3) of subdivision (a) or (b) the tax shall be redetermined and any excess of tax paid shall be refunded to the executor. (Act Feb. 24, 1919, c. 18, § 403.)

Note.—§ 402 is now § 5586; § 404 is now § 5588.

§ 5588. Notice and return by executor; assessment of tax.—The executor, within sixty days after qualifying as such, or after coming into possession of any property of the decedent, whichever event first occurs, shall give written notice thereof to the collector. The executor shall also, at such times and in such manner as may be required by regulations made pursuant to law, file with the collector a return under oath in duplicate, setting forth (a) the value of the gross estate of the decedent at the time of his death, or, in case of a nonresident, of that part of his gross estate in the United States; (b) the deductions allowed under section 403; (c) the value of the net estate of the decedent as defined in section 403; and (d) the tax paid or payable thereon; or such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct tax.

Return shall be made in all cases where the gross estate at the death of the decedent exceeds \$50,000, and in the case of the estate of every non-resident any part of whose gross estate is situated in the United States. If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he shall include in his return a description of such part and the name of every person holding a legal or beneficial interest therein, and upon notice from the collector such person shall in like manner make a return as to such part of the gross estate. The Commissioner shall make all assessments of the tax under the authority of existing administrative special and general provisions of law relating to the assessment and collection of taxes. (Act Feb. 24, 1919, c. 18, § 404.)

Note.—§ 403 is now § 5587.

§ 5589. Return and assessment by collector in absence of personal representative or of correct return by him.—If no administration is granted upon the estate of a decedent, or if no return is filed as provided in section 404, or if a return contains a false or incorrect statement of a material fact, the collector or deputy collector shall make a return and the Commissioner shall assess the tax thereon. (Act Feb. 24, 1919, c. 18, § 405.)

Note.—§ 404 is now § 5588.

§ 5590. Time when tax due; penalty for delay in payment.—The tax shall be due one year after the decedent's death; but in any case where the Commissioner finds that payment of the tax within one year after the decedent's death would impose undue hardship upon the estate, he may grant an extension of time for the payment of the tax for a period not to exceed three years from the due date. If the tax is not paid within one year and 180 days after the decedent's death, interest at the rate of 6 per centum per annum from the expiration of one year after the decedent's death shall be added as part of the tax. (Act Feb. 24, 1919, c. 18, § 406.)

§ 5591. Same; duties of executor; excess; duplicate receipts.—The executor shall pay the tax to the collector or deputy collector. If the amount of the tax can not be determined, the payment of a sum of money sufficient, in the opinion of the collector, to discharge the tax shall be deemed payment in full of the tax, except as in this section otherwise provided. If

the amount so paid exceeds the amount of the tax as finally determined, the Commissioner shall refund such excess to the executor. If the amount of the tax as finally determined exceeds the amount so paid, the collector shall notify the executor of the amount of such excess and demand payment thereof. If such excess part of the tax is not paid within thirty days after such notification, interest shall be added thereto at the rate of 10 per centum per annum from the expiration of such thirty day's period until paid, and the amount of such excess shall be a lien upon the entire gross estate, except such part thereof as may have been sold to a bona fide purchaser for a fair consideration in money or money's worth.

The collector shall grant to the person paying the tax duplicate receipts, either of which shall be sufficient evidence of such payment, and shall entitle the executor to be credited and allowed the amount thereof by any court having jurisdiction to audit or settle his accounts. (Act Feb. 24, 1919, c. 18, § 407.)

§ 5592. Proceedings for collection; property in possession of others; insurance.—If the tax herein imposed is not paid within 180 days after it is due, the collector shall, unless there is reasonable cause for further delay, proceed to collect the tax under the provisions of general law, or commence appropriate proceedings in any court of the United States, in the name of the United States, to subject the property of the decedent to be sold under the judgment or decree of the court. From the proceeds of such sale the amount of the tax, together with the costs and expenses of every description to be allowed by the court, shall be first paid, and the balance shall be deposited according to the order of the court, to be paid under its direction to the person entitled thereto.

If the tax or any part thereof is paid by, or collected out of that part of the estate passing to or in the possession of, any person other than the executor in his capacity as such, such person shall be entitled to reimbursement out of any part of the estate still undistributed or by a just and equitable contribution by the persons whose interest in the estate of the decedent would have been reduced if the tax had been paid before the distribution of the estate or whose interest is subject to equal or prior liability for the payment of taxes, debts, or other charges against the estate, it being the purpose and intent of this title that so far as is practicable and unless otherwise directed by the will of the decedent the tax shall be paid out of the estate before its distribution. If any part of the gross estate consists of proceeds of policies of insurance upon the life of the decedent receivable by a beneficiary other than the executor, the executor shall be entitled to recover from such beneficiary such portion of the total tax paid as the proceeds, in excess of \$40,000, of such policies bear to the net estate. If there is more than one such beneficiary the executor shall be entitled to recover from such beneficiaries in the same ratio. (Act Feb. 24, 1919, c. 18, § 408.)

§ 5593. Lien of tax; liability of transferee, trustee or insurance beneficiary.—Unless the tax is sooner paid in full, it shall be a lien for ten years upon the gross estate of the decedent, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien. If the Commissioner is satisfied that the tax liability of an estate has been fully discharged or provided for, he may, under regulations prescribed by him with the approval of the Secretary, issue his certificate releasing any or all property of such estate from the lien herein imposed.

If (a) the decedent makes a transfer of, or creates a trust with respect to, any property in contemplation of or intended to take effect in possession or enjoyment at or after his death (except in the case of a bona fide sale for a fair consideration in money or money's worth) or (b) if insurance passes under a contract executed by the decedent in favor of a specific beneficiary, and if in either case the tax in respect thereto is not paid when due, then the transferee, trustee, or beneficiary shall be personally liable for such tax, and such property, to the extent of the decedent's interest therein at the time of such transfer, or to the extent of such beneficiary's interest under such contract of insurance, shall be subject to a like lien

equal to the amount of such tax. Any part of such property sold by such transferee or trustee to a bona fide purchaser for a fair consideration in money or money's worth shall be divested of the lien and a like lien shall then attach to all the property of such transferee or trustee, except any part sold to a bona fide purchaser for a fair consideration in money or money's worth. (Act Feb. 24, 1919, c. 18, § 409.)

§ 5594. Fraud and other offenses.—Whoever knowingly makes any false statement in any notice or return required to be filed under this title shall be liable to a penalty of not exceeding \$5,000, or imprisonment not exceeding one year, or both.

Whoever fails to comply with any duty imposed upon him by section 404, or, having in his possession or control any record, file, or paper, containing or supposed to contain any information concerning the estate of the decedent, or, having in his possession or control any property comprised in the gross estate of the decedent, fails to exhibit the same upon request to the Commissioner or any collector or law officer of the United States, or his duly authorized deputy or agent, who desires to examine the same in the performance of his duties under this title, shall be liable to a penalty of not exceeding \$500, to be recovered, with costs of suit, in a civil action in the name of the United States. (Act Feb. 24, 1919, c. 18, § 410.)

Note.—§ 404 is now § 5588.

TITLE V.—TAX ON TRANSPORTATION AND OTHER FACILITIES, AND ON INSURANCE.

§ 5595. Rate of tax on transportation; telephone and telegraph messages; services rendered to Government.—From and after April 1, 1919, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by section 500 of the Revenue Act of 1917—

(a) A tax equivalent to 3 per centum of the amount paid for the transportation on or after such date, by rail or water or by any form of mechanical motor power when in competition with carriers by rail or water, of property by freight transported from one point in the United States to another; and a like tax on the amount paid for such transportation within the United States of property transported from a point without the United States to a point within the United States;

(b) A tax of 1 cent for each 20 cents or fraction thereof of the amount paid to any person for the transportation on or after such date, by rail or water or by any form of mechanical motor power when in competition with express by rail or water, of any package, parcel, or shipment, by express, transported from one point in the United States to another; and a like tax on the amount paid for such transportation within the United States of property transported from a point without the United States to a point within the United States;

(c) A tax equivalent to 8 per centum of the amount paid for the transportation on or after such date of persons by rail or water, or by any form of mechanical motor power on a regular established line when in competition with carriers by rail or water, from one point in the United States to another or to any point in Canada or Mexico, where the ticket or order therefor is sold or issued in the United States, not including the amount paid for commutation or season tickets for trips less than thirty miles, or for transportation the fare for which does not exceed 42 cents: Provided, That where such water transportation lines are in competition between American ports with foreign water transportation lines from adjacent foreign ports, the tax imposed under this subdivision on amounts paid for water transportation between American ports shall not exceed the amount of the transportation tax to which such foreign water transportation lines are subjected by their government corresponding to this tax;

(d) A tax equivalent to 8 per centum of the amount paid for seats, berths, and staterooms in parlor cars, sleeping cars, or on vessels, used on or after such date in connection with transportation upon which tax is imposed by subdivision (c);

(e) A tax equivalent to 8 per centum of the amount paid for the transportation on or after such date of oil by pipe line;

(f) In the case of each telegraph, telephone, cable, or radio, dispatch, message, or conversation, which originates on or after such date within the United States, and for the transmission of which the charge is more than 14 cents and not more than 50 cents, a tax of 5 cents; and if the charge is more than 50 cents, a tax of 10 cents: Provided, That only one payment of such tax shall be required, notwithstanding the lines or stations of one or more persons are used for the transmission of such dispatch, message, or conversation; and

(g) A tax equivalent to 10 per centum of the amount paid after such date to any telegraph or telephone company for any leased wire or talking circuit special service furnished after such date. This subdivision shall not apply to the amount paid for so much of such service as is utilized (1) in the collection and dissemination of news through the public press, or (2) in the conduct, by a common carrier or telegraph or telephone company, of its business as such;

(h) No tax shall be imposed under this section upon any payment received for services rendered to the United States or to any State or Territory or the District of Columbia. The right to exemption under this subdivision shall be evidenced in such manner as the Commissioner, with the approval of the Secretary, may by regulation prescribe. (Act Feb. 24, 1919, c. 18, § 500.)

§ 5596. Payment of tax; services and facilities taxable.—(a) The taxes imposed by section 500 shall be paid by the person paying for the services or facilities rendered.

(b) If a mileage book used for transportation or accommodation was purchased before November 1, 1917, or if cash fare is paid, the tax imposed by section 500 shall be collected from the person presenting the mileage book, or paying the cash fare, by the conductor or other agent, when presented for such transportation or accommodation, and the amount so collected shall be paid to the United States in such manner and at such times as the Commissioner, with the approval of the Secretary, may prescribe; if a ticket (other than a mileage book) was bought and partially used before November 1, 1917, it shall not be taxed, but if bought but not so used before section 500 takes effect, it shall not be valid for passage until the tax has been paid and such payment evidenced on the ticket in such manner as the Commissioner, with the approval of the Secretary, may by regulation prescribe.

(c) The taxes imposed by section 500 shall apply to all services or facilities specified in such section when rendered for hire, whether or not the agency rendering them is a common carrier. In case a carrier (other than a pipe line) principally engaged in rendering transportation services or facilities for hire does not, because of its ownership of the goods transported, or for any other reason, receive the amount which as a carrier it would otherwise charge, such carrier shall pay a tax equivalent to the tax which would be imposed upon the transportation of such goods if the carrier received payment for such transportation, such tax, if it can not be computed from actual rates or tariffs of the carrier, to be computed on the basis of the rates or tariffs of other carriers for like services as determined by the Commissioner. In the case of any carrier (other than a pipe line) the principal business of which is to transport goods belonging to it on its own account and which only incidentally renders services for hire, the tax shall apply to such services or facilities only as are actually rendered by it for hire. Nothing in this or the preceding section shall be construed as imposing a tax (1) upon the transportation of any commodity which is necessary for the use of the carrier in the conduct of its business as such and is intended to be so used or has been so used; or (2) upon the transportation of company material transported by one carrier, which constitutes a part of a railroad system, for another carrier which is also a part of the same system.

(d) The tax imposed by subdivision (e) of section 500 shall apply to all transportation of oil by pipe line. In case no charge for transportation is made, by reason of ownership of the commodity transported, or for any other reason, the person transporting by pipe line shall pay a tax equivalent to the tax which would be imposed if such person received payment for such transportation, and if the tax can not be computed from actual

bona fide rates or tariffs, it shall be computed (1) on the basis of the rates or tariffs of other pipe lines for like services, as determined by the Commissioner, or (2) if no such rates or tariffs exist, on the basis of a reasonable charge for such transportation, as determined by the Commissioner. (Act Feb. 24, 1919, c. 18, § 501.)

Note.—§ 500 is now § 5595.

§ 5597. Collections and returns.—Each person receiving any payments referred to in section 500 shall collect the amount of the tax, if any, imposed by such section from the person making such payments, and shall make monthly returns under oath, in duplicate, and pay the taxes so collected and the taxes imposed upon it under subdivision (c) or (d) of section 501 to the collector of the district in which the principal office or place of business is located.

No carrier collecting the taxes imposed by subdivision (a) or (b) of section 500 shall be required to list the amount of such tax separately in any bill of lading, freight or express receipt, or other similar document, if the total amount of the transportation charge and the tax is stated therein.

Any person making a refund of any payment upon which tax is collected under this section may repay therewith the amount of the tax collected on such payment; and the amount so repaid may be credited against amounts included in any subsequent monthly return.

The returns required under this section shall contain such information, and be made at such times and in such manner, as the Commissioner, with the approval of the Secretary, may by regulation prescribe.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax a penalty of 5 per centum, together with interest at the rate of 1 per centum for each full month, from the time when the tax became due. (Act Feb. 24, 1919, c. 18, § 502.)

Note.—§ 500 is now § 5595; § 501 is now § 5596.

§ 5598. Rate of tax on insurance.—From and after April 1, 1919, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by section 504 of the Revenue Act of 1917, the following taxes on the issuance of insurance policies, including, in the case of policies issued outside the United States (except those taxable under subdivision 15 of Schedule A of Title XI), their delivery within the United States by any agent or broker, whether acting for the insurer or the insured; such taxes to be paid by the insurer, or by such agent or broker:

(a) Life insurance: A tax equivalent to 8 cents on each \$100 or fractional part thereof of the amount for which any life is insured under any policy of insurance, or other instrument, by whatever name the same is called: Provided, That on all policies for life insurance only by which a life is insured not in excess of \$500, issued on the industrial or weekly or monthly payment plan of insurance, the tax shall be 40 per centum of the amount of the first weekly premium or 20 per centum of the amount of the first monthly premium, as the case may be: Provided further, That on policies of group life insurance, covering groups of not less than 25 lives in the employ of the same person, for the benefit of persons other than the employer, the tax shall be equivalent to 4 cents on each \$100 of the aggregate amount for which the group policy is issued and of any net increases in the amount of the insurance under such policy: And provided further, That on all policies covering life, health, and accident insurance combined in one policy by which a life is insured not in excess of \$500, issued on the industrial, or weekly or monthly payment plan of insurance, the tax shall be 40 per centum of the amount of the first weekly premium or 20 per centum of the amount of the first monthly premium, as the case may be;

(b) Marine, inland, and fire insurance: A tax equivalent to 1 cent on each dollar or fractional part thereof of the premium charged under each policy of insurance or other instrument by whatever name the same is called whereby insurance is made or renewed upon property of any description (including rents or profits), whether against peril by sea or inland waters, or by fire or lightning, or other peril;

(c) **Casualty insurance:** A tax equivalent to 1 cent on each dollar or fractional part thereof of the premium charged under each policy of insurance or obligation of the nature of indemnity for loss, damage, or liability (except bonds and policies taxable under subdivision 2 of schedule A of Title XI) issued or executed or renewed by any person transacting the business of employer's liability, workmen's compensation, accident, health, tornado, plate glass, steam boiler, elevator, burglary, automatic sprinkler, automobile, or other branch of insurance (except life insurance, and insurance described and taxed in the preceding subdivision): Provided, That in case of policies of insurance issued on the industrial or weekly or monthly payment plan the tax shall be 40 per centum of the amount of the first weekly premium or 20 per centum of the amount of the first monthly premium, as the case may be;

(d) Policies issued by any corporation enumerated in section 231, and policies of reinsurance, shall be exempt from the taxes imposed by this section: (Act Feb. 24, 1919, c. 18, § 503.)

Note.—§ 231 is now § 5542; § 504 is now § 5599.

§ 5599. Returns; payment of tax.—Every person issuing policies of insurance upon the issuance of which a tax is imposed by section 503 shall make monthly returns under oath, in duplicate, and pay such tax to the collector of the district in which the principal office or place of business of such person is located. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulation prescribe.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax a penalty of 5 per centum, together with interest at the rate of 1 per centum for each full month, from the time when the tax became due. (Act Feb. 24, 1919, c. 18, § 504.)

Note.—§ 503 is now § 5598.

TITLE VI.—TAX ON BEVERAGES.

§ 5600. Imposition of tax on distilled spirits.—(a) There shall be levied and collected on all distilled spirits now in bond or that have been or that may be hereafter produced in or imported into the United States, except such distilled spirits as are subject to the tax provided in section 604, in lieu of the internal-revenue taxes now imposed thereon by law, a tax of \$2.20 (or, if withdrawn for beverage purposes or for use in the manufacture or production of any article used or intended for use as a beverage, a tax of \$6.40) on each proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, to be paid by the distiller or importer when withdrawn, and collected under the provisions of existing law.

(b) That the tax imposed by subdivision (a) on distilled spirits intended for beverage purposes shall not be due or payable on such spirits while stored in any distillery, bonded warehouse, or special or general bonded warehouse, and which, pursuant to any Act of Congress or proclamation of the President of the United States, can not be lawfully sold or removed from any such warehouse during the period of prohibition fixed by such Act or proclamation; and all warehousing bonds or transportation and warehousing bonds conditioned for the payment of tax on any such spirits so stored on the date such prohibition takes effect shall as to all such spirits actually so stored be canceled and discharged, provided the distiller of such spirits shall in lieu of such bonds and prior to their cancellation execute a bond in a penal sum of not less than \$10,000, with sureties satisfactory to the collector of the district, conditioned that the principal shall, during the period of such prohibition, safely keep or cause to be kept in good condition all such spirits and the warehouse in which the same are stored, and shall not remove or suffer to be removed from warehouse, contrary to law, any such spirits during the period of such prohibition; and the bond herein prescribed shall be in such further sum and shall contain such further conditions as the Commissioner, with the approval of the Secretary, may by regulations require. The distiller may, subject to the provisions of this section, be permitted to retain in any such bonded

warehouse distilled spirits on which, under the terms of any existing bond, the tax imposed thereon becomes due and payable prior to the date such prohibition takes effect: Provided, that on the removal of such prohibition the distiller shall, as to all spirits as to which the bonded period fixed by law has not expired and which remain stored in warehouse, execute new and satisfactory bond in the form required by existing law, conditioned for the payment of the tax on all such spirits; and all provisions of existing law relating to such bonded warehouses, or the storage of spirits therein, or to the execution of new or additional bonds, so far as applicable, shall continue in force as to all distilled spirits rebonded under the provisions of this section.

Upon the withdrawal of distilled spirits from bonded warehouse, after the period of prohibition has ended, and under the conditions imposed by section 50 of an Act entitled "An Act to reduce taxation, to provide revenue for the support of the Government, and for other purposes," approved August 28, 1894, an allowance for loss by leakage or other unavoidable cause, not exceeding one proof gallon as to packages of a capacity of not less than 40 wine gallons, may be made in addition to that provided in said section 50, as amended; and a like additional allowance of one proof gallon as to each package withdrawn may be made for each period of four months, or fraction thereof, for such spirits as shall have remained in warehouse during the period of prohibition and after the expiration of the maximum leakage period fixed by that section.

Under regulations prescribed by the Secretary, any imported distilled spirits, wines or other liquors which may be in any customs bonded warehouse under the customs laws on the date such prohibition takes effect shall be permitted to remain therein without payment of any taxes or duties thereon, beyond the three-year period provided in section 2971 of the Revised Statutes, during such period of prohibition; and may be exported at any time during such extended period. Any imported spirits, wines or other liquors as to which the three-year bonded period may expire after the passage of this Act and prior to the date such prohibition takes effect may at the option of the owner remain in bond during such period of prohibition.

(c) In lieu of the internal-revenue tax now imposed thereon by law there shall be levied and collected upon all perfumes hereafter imported into the United States containing distilled spirits, a tax of \$1.10 per wine gallon, and a proportionate tax at a like rate on all fractional parts of such wine gallon. Such tax shall be collected by the collector of customs and deposited as internal-revenue collections, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe. (Act Feb. 24, 1919, c. 18, §600.)

Note.—§ 604 is now § 5604.

§ 5601. Importation of distilled spirits.—No distilled spirits produced after October 3, 1917, shall be imported into the United States from any foreign country, or from the Virgin Islands (unless produced from products the growth of such islands, and not then into any State or Territory or District of the United States in which the manufacture or sale of intoxicating liquor is prohibited), or from Porto Rico, or the Philippine Islands. Under such rules, regulations, and bonds as the Secretary may prescribe, the provisions of this section shall not apply to distilled spirits imported for other than (1) beverage purposes or (2) use in the manufacture or production of any article used or intended for use as a beverage. (Act Feb. 24, 1919, c. 18, § 601.)

§ 5602. Transfer, storage and transportation of spirits; ethyl and denatured alcohol.—At registered distilleries producing alcohol, or other high-proof spirits, packages may be filled with such spirits reduced to not less than one hundred proof from the receiving cisterns and tax paid without being entered into bonded warehouse. Such spirits may be also transferred from the receiving cisterns at such distilleries, by means of pipe lines, direct to storage tanks in the bonded warehouse and may be warehoused in such storage tanks. Such spirits may be also transferred in tanks or tank cars to general bonded warehouses for storage therein, either in storage tanks in such warehouses or in the tanks in which they were transferred. Such

spirits may also be transferred from receiving cisterns or warehouse storage tanks to barrels, drums, tanks, tank cars, or other approved containers, and may be transported in such containers for exportation or other lawful purposes. The Commissioner, with the approval of the Secretary, is hereby empowered to prescribe all necessary regulations relating to the drawing off, transferring, gauging, storing, and transporting of such spirits; the records to be kept and returns to be made; the size and kind of packages and tanks to be used; the marking, branding, numbering, and stamping of such packages and tanks; the kinds of stamps, if any, to be used; and the time and manner of paying the tax; the kind of bond and the penal sum of same. The tax prescribed by law must be paid before such spirits are removed from the distillery premises, or from general bonded warehouse in the case of spirits transferred thereto, except as otherwise provided by law.

Under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, distilled spirits may hereafter be drawn from receiving cisterns and deposited in distillery warehouses without having affixed to the packages containing the same, distillery warehouse stamps, and such packages, when so deposited in warehouse, may be withdrawn therefrom on the original gauge where the same have remained in such warehouse for a period not exceeding thirty days from the date of deposit.

Under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, the manufacture, warehousing, withdrawal, and shipment, under the provisions of existing law, of ethyl alcohol for other than (1) beverage purposes or (2) use in the manufacture or production of any article used or intended for use as a beverage, and denatured alcohol, may be exempted from the provisions of section 3283 of the Revised Statutes.

The Commissioner, with the approval of the Secretary, may by regulations exempt distillers of ethyl, for use in the production of munitions of war, or for other nonbeverage purposes, from so much of the provisions of sections 3264, 3285, or 3309 of the Revised Statutes, and Acts amendatory thereof, respecting the survey of distilleries, the period of fermentation, the filling and emptying of fermenting tubs, and assessments, as, in his judgment, may be expedient: Provided, That the bond prescribed in section 3260 of the Revised Statutes shall, in the cases herein provided, be in such sum and contain such further conditions as the Commissioner may require. (Act Feb. 24, 1919, c. 18, § 602.)

§ 5603. Denaturation or shipment of ethyl alcohol.—Under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, ethyl alcohol of not less than 180 degrees proof, produced at any central distilling and denaturing plant established under the provisions of subsection 2, paragraph N, of section IV of the Act entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October 3, 1913, may be removed from such plant to any central denaturing bonded warehouse for denaturation, or may, before or after denaturation, be removed from such plant or from such denaturing bonded warehouse, free of tax, for use of the United States or for shipment to any nation while engaged against the German Government in the present war, and the removal herein authorized may be made in such tank vessels, tank cars, drums, casks, or other containers as may be approved by the Commissioner. It shall be lawful, under regulations prescribed by the Commissioner, with the approval of the Secretary, for an allowance to be made for leakage or loss by unavoidable accident and without fault or negligence of the distiller, owner, carrier, or his agents or employees, which may occur during the transportation of such spirits or while the same are lawfully stored on either of the premises herein described. (Act Feb. 24, 1919, c. 18, § 603.)

§ 5604. Rate of tax on distilled spirits.—Upon all distilled spirits produced in or imported into the United States upon which the internal-revenue tax now imposed by law has been paid, and which, on the day after the passage of this Act, are held by any person and intended for sale or for use in the manufacture or production of any article intended for sale, there shall be levied, assessed, collected, and paid a floor tax of \$3.20 (if intended for sale for beverage purposes or for use in the manufacture or production

of any article used or intended for use as a beverage on each proof gallon, and a proportionate tax at a like rate on all fractional parts of such proof gallon. (Act Feb. 24, 1919, c. 18, § 604.)

§ 5605. Tax on rectified and refined spirits.—In addition to the tax imposed by this Act on distilled spirits and wines, there shall be levied, assessed, collected, and paid, in lieu of the tax imposed by section 304 of the Revenue Act of 1917, a tax of 30 cents on each proof gallon and a proportionate tax at a like rate on all fractional parts of such proof gallon on all distilled spirits or wines hereafter rectified, purified, or refined in such manner, and on all mixtures hereafter produced in such manner, that the person so rectifying, purifying, refining, or mixing the same is a rectifier within the meaning of section 3244 of the Revised Statutes, as amended: Provided, That this tax shall not apply to gin produced by the redistillation of a pure spirit over juniper berries and other aromatics.

Upon all such articles heretofore produced, and which on the day after the passage of this Act are held by any person and intended for sale, there shall be levied, assessed, collected, and paid a floor tax of 15 cents on each proof gallon, and a proportionate tax at a like rate on all fractional parts of each proof gallon; and all such distilled spirits so held and not contained in the distillers' original stamped packages, or in bottles or other containers bearing the distillers' original labels, shall for the purpose of this section be regarded as rectified spirits.

When the process of rectification is completed and the taxes prescribed by this section have been paid, it shall be unlawful for the rectifier or other dealer to reduce in proof or increase in volume such spirits or wine by the addition of water or other substance; nothing herein contained shall, however, prevent a rectifier from using again in the process of rectification spirits already rectified and upon which the taxes have theretofore been paid.

The taxes imposed by this section shall not attach to cordials or liqueurs on which a tax is imposed and paid under section 611 or 613, nor to the mixing and blending of wines, where such blending is for the sole purpose of perfecting such wines according to commercial standards, nor to blends made exclusively of two or more pure straight whiskies aged in wood for a period not less than four years and without the addition of coloring or flavoring matter or any other substance than pure water and if not reduced below ninety proof: Provided, That such blended whiskies shall be exempt from tax under this section only when compounded under the immediate supervision of a revenue officer, in such tanks and under such conditions and supervision as the Commissioner, with the approval of the Secretary, may prescribe.

All distilled spirits or wines taxable under this section shall be subject to uniform regulations concerning the use thereof in the manufacture, blending, compounding, mixing, marking, branding, and sale of whisky and rectified spirits, and no discrimination whatsoever shall be made by reason of a difference in the character of the material from which same may have been produced.

The business of a rectifier of spirits shall be carried on, and the tax on rectified spirits shall be paid, under such rules, regulations, and bonds as may be prescribed by the Commissioner, with the approval of the Secretary.

Whoever violates any of the provisions of this section shall be deemed to be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 or imprisoned not more than two years, and shall, in addition, be liable to double the tax evaded, together with the tax, to be collected by assessment or on any bond given. (Act Feb. 24, 1919, c. 18, § 605.)

Note.—§ 304 is now § 5569; § 611 is now § 5611; § 613 is now § 5613.

§ 5606. Stamps for liquor and tobacco.—Hereafter collectors shall not furnish wholesale liquor dealer's stamps in lieu of and in exchange for stamps for rectified spirits unless the package covered by stamp for rectified spirits is to be broken into smaller packages.

The Commissioner, with the approval of the Secretary, is authorized to discontinue the use of the following stamps whenever in his judgment the interests of the Government will be subserved thereby:

Distillery warehouse, special bonded warehouse, special bonded rewarehouse, general bonded warehouse, general bonded retransfer, transfer brandy, export tobacco, export cigars, export oleomargarine, and export fermented-liquor stamps. (Act Feb. 24, 1919, c. 18, § 606.)

§ 5607. Meters, tanks and pipes.—The Commissioner, with the approval of the Secretary, is hereby authorized to require distilleries, breweries, rectifying houses, and wherever else in his judgment such action may be deemed advisable, the installation of meters, tanks, pipes, or any other apparatus for the purpose of protecting the revenue, and such meters, tanks, and pipes and all necessary labor incident thereto shall be at the expense of the person on whose premises the installation is required. Any such person refusing or neglecting to install such apparatus when so required by the Commissioner shall not be permitted to conduct business on such premises. (Act Feb. 24, 1919, c. 18, § 607.)

§ 5608. Rate of tax on fermented liquors.—There shall be levied and collected on all beer, lager beer, ale, porter, and other similar fermented liquor, containing one-half of one per centum, or more, of alcohol, brewed or manufactured and hereafter sold, or removed for consumption or sale, within the United States, by whatever name such liquors may be called, in lieu of the internal-revenue taxes now imposed thereon by law, a tax of \$6.00 for every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity or for the fractional parts of a barrel authorized and defined by law, to be collected under the provisions of existing law. (Act Feb. 24, 1919, c. 18, § 608.)

§ 5609. Removal of fermented liquor to distillery.—From and after the passage of this Act taxable fermented liquors may be conveyed without payment of tax from the brewery premises where produced to a contiguous industrial distillery of either class established under the Act entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October 3, 1913, to be used as distilling material, and the residue from such distillation, containing less than one-half of 1 per centum of alcohol by volume, which is to be used in making beverages, may be manipulated by cooling, flavoring, carbonating, settling, and filtering on the distillery premises or elsewhere.

The removal of the taxable fermented liquor from the brewery to the distillery and the operation of the distillery and removal of the residue therefrom shall be under the supervision of such officer or officers as the Commissioner shall deem proper, and the Commissioner, with the approval of the Secretary, is hereby authorized to make such regulations from time to time as may be necessary to give force and effect to this section and to safeguard the revenue. (Act Feb. 24, 1919, c. 18, § 609.)

§ 5610. Definition and manufacture of natural wine.—Natural wine within the meaning of this Act shall be deemed to be the product made from the normal alcoholic fermentation of the juice of sound, ripe grapes, without addition or abstraction, except such as may occur in the usual cellar treatment of clarifying and aging: Provided, however, That the product made from the juice of sound, ripe grapes by complete fermentation of the must under proper cellar treatment and corrected by the addition (under the supervision of a gauger or storekeeper-gauger in the capacity of gauger) of a solution of water and pure cane, beet, or dextrose sugar (containing, respectively, not less than 95 per centum of actual sugar, calculated on a dry basis) to the must or to the wine, to correct natural deficiencies, when such addition shall not increase the volume of the resultant product more than 35 per centum, and the resultant product does not contain less than five parts per thousand of acid before fermentation and not more than 13 per centum of alcohol after complete fermentation, shall be deemed to be wine within the meaning of this Act, and may be labeled, transported, and sold as "wine," qualified by the name of the locality where produced, and may be further qualified by the name of its own particular type or variety: And provided further, That wine as defined in this section may be sweetened with cane sugar or beet sugar or pure condensed grape must and fortified under the provisions of this Act, and wines so sweetened or fortified shall be considered sweet wine within the meaning of this Act. (Act Feb. 24, 1919, c. 18, § 619.)

§ 5611. Rate of tax on wines.—Upon all still wines, including vermouth, and all artificial or imitation wines or compounds sold as still wine, which are hereafter produced in or imported into the United States, or which on the day after the passage of this Act are on any winery premises or other bonded premises or in transit thereto or at any customhouse, there shall be levied, collected, and paid, in lieu of the internal-revenue taxes now imposed thereon by law, taxes at rates as follows, when sold, or removed for consumption or sale:

On wines containing not more than 14 per centum of absolute alcohol, 16 cents per wine gallon, the per centum of alcohol taxable under this section to be reckoned by volume and not by weight;

On wines containing more than 14 per centum and not exceeding 21 per centum of absolute alcohol, 40 cents per wine gallon;

On wines containing more than 21 per centum and not exceeding 24 per centum of absolute alcohol, \$1 per wine gallon;

All such wines containing more than 24 per centum of absolute alcohol by volume shall be classed as distilled spirits and shall pay tax accordingly. (Act Feb. 24, 1919, c. 18, § 611.)

§ 5612. Withdrawal of brandy or wine spirits for fortification of wines.—Under such regulations and official supervision and upon the giving of such notices, entries, bonds, and other security as the Commissioner, with the approval of the Secretary, may prescribe, any producer of wines defined under the provisions of this title, may withdraw from any fruit distillery or special bonded warehouse grape brandy, or wine spirits, for the fortification of such wines on the premises where actually made: Provided, That there shall be levied and assessed against the producer of such wines a tax (in lieu of the internal-revenue tax now imposed thereon by law) of 60 cents per proof gallon of grape brandy or wine spirits whenever withdrawn and hereafter so used by him in the fortification of such wines during the preceding month, which assessment shall be paid by him within ten months from the date of notice thereof: Provided further, That nothing contained in this section shall be construed as exempting any wines, cordials, liqueurs, or similar compounds from the payment of any tax provided for in this title. (Act Feb. 24, 1919, c. 18, § 612.)

§ 5613. Tax on champagne, cordials and fortified sweet wines.—Upon the following articles which are hereafter produced in or imported into the United States, or which on the day after the passage of this Act are on any winery premises or other bonded premises or in transit thereto or at any customhouse, there shall be levied, collected, and paid taxes at rates as follows, when sold, or removed for consumption or sale:

On each bottle or other container of champagne or sparkling wine, 12 cents on each one-half pint or fraction thereof;

On each bottle or other container of artificially carbonated wine, 6 cents on each one-half pint or fraction thereof;

On each bottle or other container of liqueurs, cordials, or similar compounds, by whatever name sold or offered for sale, containing sweet wine fortified with grape brandy, 6 cents on each one-half pint or fraction thereof.

The tax imposed by this section shall, in the case of any article upon which a corresponding internal-revenue tax is now imposed by law, be in lieu of such tax. (Act Feb. 24, 1919, c. 18, § 613.)

§ 5614. Floor tax on wines on which revenue tax paid.—Upon all articles specified in section 611 or 613 upon which the internal-revenue tax now imposed by law has been paid and which are on the day after the passage of this Act held by any person and intended for sale, there shall be levied, collected, and paid a floor tax equal to the difference between the tax imposed by this Act and the tax so paid. (Act Feb. 24, 1919, c. 18, § 614.)

Note.—§ 611 is now § 5611; § 613 is now § 5613.

§ 5615. Floor tax on brandy or wine spirits used for fortification.—Upon all sweet wines held for sale by the producer thereof upon the day after the passage of this Act there shall be levied, assessed, collected, and paid a floor tax equivalent to 30 cents per proof gallon upon the grape brandy or wine spirits used in the fortification of such wine. (Act Feb. 24, 1919, c. 18, § 615.)

§ 5616. Wine stamps; bonded premises; wine for family use.—The taxes imposed by section 611 or 613 shall be paid by stamp on removal of the wines from the customhouse, winery, or other bonded place of storage for consumption or sale, and every person hereafter producing, or having in his possession or under his control when this title takes effect, any wines subject to the tax imposed in section 611 or 613 shall file such notice, describing the premises on which such wines are produced or stored; shall execute a bond in such form; shall make inventories under oath; and shall, prior to sale or removal for consumption, affix to each cask or vessel containing such wine such marks, labels, or stamps as the Commissioner, with the approval of the Secretary, may from time to time prescribe; and the premises described in such notice shall, for the purpose of this Act be regarded as bonded premises. But the provisions of this section, except as to payment of tax and the affixing of the required stamps or labels, shall not apply to wines held by retail dealers, as defined in section 3244 of the Revised Statutes, nor, subject to regulations prescribed by the Commissioner, with the approval of the Secretary, shall the tax imposed by section 611 apply to wines produced for the family use of the duly registered producer thereof and not sold or otherwise removed from the place of manufacture and not exceeding in any case two hundred gallons per year. (Act Feb. 24, 1919, c. 18, § 616.)

Note.—§ 611 is now § 5611; § 613 is now § 5613.

§ 5617. Removal of wines, free of tax; grape wines for production of non-alcoholic wines.—(a) Under such regulations and upon the execution of such notices, entries, bonds, and other security as the Commissioner, with the approval of the Secretary, may prescribe, domestic wines subject to the tax imposed by section 611 may be removed from the winery where produced, free of tax, for storage on other bonded premises or from such premises to other bonded premises (but not more than one additional removal shall be allowed), or for exportation from the United States or for use as distilling material at any regularly registered distillery: Provided, however, That the distiller using any such wine as material shall, subject to the provisions of section 3309 of the Revised Statutes, as amended, be held to pay the tax on the product of such wines as will include both the alcoholic strength therein produced by fermentation and that obtained from the brandy or wine spirits added to such wines at the time of fortification.

(b) Under regulations prescribed by the Commissioner with the approval of the Secretary, it shall be lawful to produce grape wines on bonded winery premises by the usual method, and to transport and use the same, and like wines heretofore produced and now stored on bonded winery premises, as distilling material for the production of nonbeverage spirits in the production of nonalcoholic wines, containing less than $\frac{1}{2}$ of 1 per centum of alcohol by volume, in any fruit brandy or industrial distillery: Provided, That all alcoholic spirits so obtained at any industrial distillery shall be denatured, and all spirits so obtained at any fruit distillery shall be removed and used only for nonbeverage purposes or for denaturation. (Act Feb. 24, 1919, c. 18, § 618.)

Note.—§ 611 is now § 5611.

§ 5618. Collection of tax on imported wines.—The collection of the tax on imported still wines, including vermouth, and sparkling wines, including champagne, and on imported liqueurs, cordials, and similar compounds, may be made within the discretion of the Commissioner, with the approval of the Secretary, by assessment instead of by stamps. (Act Feb. 24, 1919, c. 18, § 619.)

§ 5619. Offenses concerning wines.—Whoever evades or attempts to evade any tax imposed by sections 611 to 615, both inclusive, or any requirement of sections 610 to 621, both inclusive, or regulations issued pursuant thereto, or whoever, otherwise than as provided in such sections, recovers or attempts to recover any spirits from domestic or imported wine, or whoever rectifies, mixes, or compounds with distilled spirits any domestic wines, other than in the manufacture of liqueurs, cordials, or similar com-

pounds, shall, on conviction, be punished for each such offense by a fine of not exceeding \$5,000, or imprisonment for not more than five years, or both, and in addition thereto by a penalty of double the tax evaded, or attempted to be evaded, to be assessed and collected in the same manner as taxes are assessed and collected, and all wines, spirits, liqueurs, cordials, or similar compounds as to which such violation occurs shall be forfeited to the United States. But the provisions of this section and the provisions of section 3244 of the Revised Statutes, as amended, relating to rectification, or other internal-revenue laws of the United States, shall not be held to apply to or prohibit the mixing or blending of wines subject to tax under the provisions of sections 611 to 615, both inclusive, with each other or with other wines for the sole purpose of perfecting such wines according to commercial standards: Provided, That nothing herein contained shall be construed as prohibiting the use of tax-paid grain or other ethyl alcohol in the fortification of sweet wines as defined in section 610 of this Act and section 43 of the Act entitled "An Act to reduce the revenue and equalize duties on imports, and for other purposes," approved October 1, 1890, as amended by this Act. (Act Feb. 24, 1919, c. 18, § 620.)

Note.—§ 610 is now § 5610; § 611 is now § 5611; § 615 is now § 5615; § 621 is now § 5620.

§ 5620. Regulations by commissioner; gaugers and storekeepers.—The Commissioner, by regulations to be approved by the Secretary, may require the use at each fruit distillery of such spirit meters, and such locks and seals to be affixed to fermenters, tanks, or other vessels and to such pipe connections as may in his judgment be necessary or expedient, and is hereby authorized to assign to any such distillery and to each winery where wines are to be fortified such number of gaugers or storekeeper-gaugers in the capacity of gaugers as may be necessary for the proper supervision of manufacture of brandy or the making or fortifying of wines subject to tax imposed by this section; and the compensation of such officers shall not exceed \$5 per diem while so assigned, together with their actual and necessary traveling expenses, and also a reasonable allowance for their board bills, to be fixed by the Commissioner, with the approval of the Secretary, but not to exceed \$2.50 per diem for such board bills. (Act Feb. 24, 1919, c. 18, § 621.)

§ 5621. Allowance for loss of wines.—The commissioner, with the approval of the Secretary, is hereby authorized to make allowances for unavoidable loss of wines while on storage or during cellar treatment as in his judgment may be just and proper. (Act Feb. 24, 1919, c. 18, § 622.)

§ 5622. Removal of liquors for export.—Under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, alcohol or other distilled spirits of a proof strength of not less than one hundred and eighty degrees intended for export free of tax may be drawn from receiving cisterns at any distillery, or from storage tanks in any distillery warehouse, for transfer to tanks or tank cars for export from the United States, and all provisions of existing law relating to the exportation of distilled spirits not inconsistent herewith shall apply to spirits removed for export under the provisions of this Act. (Act Feb. 24, 1919, c. 18, § 624.)

§ 5623. Bottling gin for export.—Distilled spirits known commercially as gin of not less than 80 per centum proof may at any time within eight years after entry in bond at any distillery be bottled in bond at such distillery for export without the payment of tax, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe. (Act Feb. 24, 1919, c. 18, § 626.)

§ 5624. Tax on soft drinks, mineral waters and beverages derived from cereals.—There shall be levied, assessed, collected, and paid in lieu of the taxes imposed by sections 313 and 315 of the Revenue Act of 1917—

(a) Upon all beverages derived wholly or in part from cereals or substitutes therefor, and containing less than one-half of one per centum of alcohol, sold by the manufacturer, producer, or importer, in bottles or other closed containers, a tax equivalent to 15 per centum of the price for which so sold; and upon all unfermented grape juice, ginger ale, root beer, sarsaparilla, pop, artificial mineral waters (carbonated or not carbon-

ated), other carbonated waters or beverages, and other soft drinks, sold by the manufacturer, producer, or importer, in bottles or other closed containers, a tax equivalent to 10 per centum of the price for which so sold; and

(b) Upon all natural mineral waters or table waters, sold by the producer, bottler, or importer thereof, in bottles or other closed containers, at over 10 cents per gallon, a tax of 2 cents per gallon. (Act Feb. 24, 1919, c. 18, § 628.)

§ 5625. Payment of such tax by manufacturer or importer.—Each manufacturer, producer, bottler, or importer of any of the articles enumerated in section 628 shall make monthly returns under oath in duplicate and pay the taxes imposed in respect to such articles by such section to the collector for the district in which is located the principal place of business, containing such information necessary for the assessment of the tax, and at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulation prescribe.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax a penalty of 5 per centum, together with interest at the rate of 1 per centum for each full month, from the time when the tax became due. (Act Feb. 24, 1919, c. 18, § 629.)

Note.—§ 628 is now § 5624.

§ 5626. Soda fountain tax.—On and after May 1, 1919, there shall be levied, assessed, collected, and paid a tax of 1 cent for each 10 cents or fraction thereof of the amount paid to any person conducting a soda fountain, ice-cream parlor, or other similar place of business, for drinks commonly known as soft drinks, compounded or mixed at such place of business, or for ice cream, ice-cream sodas, sundaes, or other similar articles of food or drink, when any of the above are sold on or after such date for consumption in or in proximity to such place of business. Such tax shall be paid by the purchaser to the vendor at the time of the sale and shall be collected, returned, and paid to the United States by such vendor in the same manner as provided in section 502. (Act Feb. 24, 1919, c. 18, § 630.)

Note.—§ 502 is now § 5597.

TITLE VII.—TAX ON CIGARS, TOBACCO, AND MANUFACTURES THEREOF.

§ 5627. Tax on cigars and cigarettes.—Upon cigars and cigarettes manufactured in or imported into the United States, and hereafter sold by the manufacturer or importer, or removed for consumption or sale, there shall be levied, collected, and paid under the provisions of existing law, in lieu of the internal-revenue taxes now imposed thereon by law, the following taxes, to be paid by the manufacturer or importer thereof—

On cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, \$1.50 per thousand;

On cigars made of tobacco, or any substitute therefor, and weighing more than three pounds per thousand, if manufactured or imported to retail at not more than 5 cents each, \$4 per thousand;

If manufactured or imported to retail at more than 5 cents each and not more than 8 cents each, \$6 per thousand;

If manufactured or imported to retail at more than 8 cents each and not more than 15 cents each, \$9 per thousand;

If manufactured or imported to retail at more than 15 cents each and not more than 20 cents each, \$12 per thousand;

If manufactured or imported to retail at more than 20 cents each, \$15 per thousand;

On cigarettes made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, \$3 per thousand;

Weighing more than three pounds per thousand, \$7.20 per thousand.

(b) Whenever in this section reference is made to cigars manufactured or imported to retail at not over a certain price each, then in determining the tax to be paid regard shall be had to the ordinary retail price of a single cigar.

(c) The Commissioner may, by regulation, require the manufacturer or importer to affix to each box, package, or container a conspicuous label indicating the clause of this section under which the cigars therein contained have been tax-paid, which must correspond with the tax-paid stamp on such box or container.

(d) Every manufacturer of cigarettes (including small cigars weighing not more than three pounds per thousand) shall put up all the cigarettes and such small cigars that he manufactures or has manufactured for him, and sells or removes for consumption or sale, in packages or parcels containing five, eight, ten, twelve, fifteen, sixteen, twenty, twenty-four, forty, fifty, eighty, or one hundred cigarettes each, and shall securely affix to each of such packages or parcels a suitable stamp denoting the tax thereon and shall properly cancel the same prior to such sale or removal for consumption or sale under such regulations as the Commissioner, with the approval of the Secretary, shall prescribe; and all cigarettes imported from a foreign country shall be packed, stamped, and the stamps canceled in a like manner, in addition to the import stamp indicating inspection of the customhouse before they are withdrawn therefrom. (Act Feb. 24, 1919, c. 18, § 700.)

§ 5628. Tax on tobacco and snuff.—(a) Upon all tobacco and snuff manufactured in or imported into the United States, and hereafter sold by the manufacturer or importer, or removed for consumption or sale, there shall be levied, collected, and paid, in lieu of the internal-revenue taxes now imposed thereon by law, a tax of 18 cents per pound, to be paid by the manufacturer or importer thereof. (Act Feb. 24, 1919, c. 18, § 701.)

§ 5629. Floor tax on tobacco and its products.—Upon all the articles enumerated in section 700 or 701, which were manufactured or imported, and removed from factory or customhouse on or prior to the date of the passage of this Act, and upon which the tax imposed by existing law has been paid, and which are, on the day after the passage of this Act, held by any person and intended for sale, there shall be levied, assessed, collected, and paid a floor tax equal to the difference between (a) the tax imposed by this Act upon such articles according to the class in which they are placed by this title, and (b) the tax imposed upon such articles by existing law other than section 403 of the Revenue Act of 1917. (Act Feb. 24, 1919, c. 18, § 702.)

Note.—§ 700 is now § 5627; § 701 is now § 5628.

§ 5630. Tax on cigarette paper.—There shall be levied, collected, and paid, in lieu of the taxes imposed by section 404 of the Revenue Act of 1917, upon cigarette paper made up into packages, books, sets, or tubes, made up in or imported into the United States and hereafter sold by the manufacturer or importer to any person (other than to a manufacturer of cigarettes for use by him in the manufacture of cigarettes) the following taxes, to be paid by the manufacturer or importer: On each package, book, or set containing more than twenty-five but not more than fifty papers, $\frac{1}{2}$ cent; containing more than fifty but not more than one hundred papers, 1 cent; containing more than one hundred papers, $\frac{1}{2}$ cent for each fifty papers or fractional part thereof; and upon tubes, 1 cent for each fifty tubes or fractional part thereof.

Every manufacturer of cigarettes purchasing any cigarette paper made up into tubes (a) shall give bond in an amount and with sureties satisfactory to the Commissioner that he will use such tubes in the manufacture of cigarettes or pay thereon a tax equivalent to the tax imposed by this section, and (b) shall keep such records and render under oath such returns as the Commissioner finds necessary to show the disposition of all tubes purchased or imported by such manufacturer of cigarettes. (Act Feb. 24, 1919, c. 18, § 703.)

TITLE VIII.—TAX ON ADMISSIONS AND DUES.

§ 5631. Admissions.—(a) From and after April 1, 1919, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by section 700 of the Revenue Act of 1917—

(1) A tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission to any place on or after such date, including admission by season ticket or subscription, to be paid by the person paying for such admission;

(2) In the case of persons (except bona fide employees, municipal officers on official business, persons in the military or naval forces of the United States when in uniform, and children under twelve years of age) admitted free or at reduced rates to any place at a time when and under circumstances under which an admission charge is made to other persons, a tax of 1 cent for each 10 cents or fraction thereof of the price so charged to such other persons for the same or similar accommodations, to be paid by the person so admitted;

(3) Upon tickets or cards of admission to theaters, operas, and other places of amusement, sold at news stands, hotels, and places other than the ticket offices of such theaters, operas, or other places of amusement, at not to exceed 50 cents in excess of the sum of the established price therefor at such ticket offices plus the amount of any tax imposed under paragraph (1), a tax equivalent to 5 per centum of the amount of such excess; and if sold for more than 50 cents in excess of the sum of such established price plus the amount of any tax imposed under paragraph (1), a tax equivalent to 50 per centum of the whole amount of such excess, such taxes to be returned and paid, in the manner provided in section 903, by the person selling such tickets;

(4) A tax equivalent to 50 per centum of the amount for which the proprietors, managers, or employees of any opera house, theater, or other place of amusement sell or dispose of tickets or cards of admission in excess of the regular or established price or charge therefor, such tax to be returned and paid, in the manner provided in section 903, by the person selling such tickets;

(5) In the case of persons having the permanent use of boxes or seats in an opera house or any place of amusement or a lease for the use of such box or seat in such opera house or place of amusement (in lieu of the tax imposed by paragraph (1), a tax equivalent to 10 per centum of the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by or for the lessee or holder, such tax to be paid by the lessee or holder; and

(6) A tax of $1\frac{1}{2}$ cents for each 10 cents or fraction thereof of the amount paid for admission to any public performance for profit at any roof garden, cabaret, or other similar entertainment, to which the charge for admission is wholly or in part included in the price paid for refreshment, service, or merchandise; the amount paid for such admission to be deemed to be 20 per centum of the amount paid for refreshment, service, and merchandise; such tax to be paid by the person paying for such refreshment, service, or merchandise.

(b) No tax shall be levied under this title in respect to any admissions all the proceeds of which inure exclusively to the benefit of religious, educational, or charitable institutions, societies, or organizations, societies for the prevention of cruelty to children or animals, or exclusively to the benefit of organizations conducted for the sole purpose of maintaining symphony orchestras and receiving substantial support from voluntary contributions, none of the profits of which are distributed to members of such organizations, or exclusively to the benefit of persons in the military or naval forces of the United States, or admissions to agricultural fairs none of the profits of which are distributed to stockholders or members of the association conducting the same.

(c) The term "admission" as used in this title includes seats and tables, reserved or otherwise, and other similar accommodations, and the charges made therefor.

(d) The price (exclusive of the tax to be paid by the person paying for admission) at which every admission ticket or card is sold shall be conspicuously and indelibly printed, stamped, or written on the face or back thereof, together with the name of the vendor if sold other than at the ticket office of the theater, opera, or other place of amusement. Whoever sells an admission ticket or card on which the name of the vendor and price is not so printed, stamped, or written, or at a price in excess of the price so printed, stamped, or written thereon, is guilty of a misdemeanor,

and upon conviction thereof shall be fined not more than \$100. (Act Feb. 24, 1919, c. 18, § 800.)

Note.—§ 903 is now § 5632e.

§ 5632. Dues.—From and after April 1, 1919, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by section 701 of the Revenue Act of 1917, a tax equivalent to 10 per centum of any amount paid on or after such date, for any period after such date, (a) as dues or membership fees (where the dues or fees of an active resident annual member are in excess of \$10 per year) to any social, athletic, or sporting club or organization; or (b) as initiation fees to such a club or organization, if such fees amount to more than \$10, or if the dues or membership fees (not including initiation fees) of an active resident member are in excess of \$10 per year; such taxes to be paid by the person paying such dues or fees: Provided, That there shall be exempted from the provisions of this section all amounts paid as dues or fees to a fraternal society, order, or association, operating under the lodge system. In the case of life memberships a life member shall pay annually, at the time for the payment of dues by active resident annual members, a tax equivalent to the tax upon the amount paid by such a member, but shall pay no tax upon the amount paid for life membership. (Act Feb. 24, 1919, c. 18, § 801.)

§ 5632a. Collection of tax on admissions and dues.—Every person (a) receiving any payments for such admission, dues, or fees shall collect the amount of the tax imposed by section 800 or 801 from the person making such payments, or (b) admitting any person free to any place for admission to which a charge is made, shall collect the amount of the tax imposed by section 800 from the person so admitted. Every club or organization having life members, shall collect from such members the amount of the tax imposed by section 801. In all the above cases returns and payments of the amount so collected shall be made at the same time and in the same manner as provided in section 502. (Act Feb. 24, 1919, c. 18, § 802.)

Note.—§ 502 is now § 5597; § 800 is now § 5631; § 801 is now § 5632.

TITLE IX.—EXCISE TAXES.

§ 5632b. Tax on sales or leases by producer or importer.—There shall be levied, collected, and paid upon the following articles sold or leased by the manufacturer, producer, or importer, a tax equivalent to the following percentages of the price for which so sold or leased—

(1) Automobile trucks and automobile wagons, (including tires, inner tubes, parts and accessories therefor, sold on or in connection therewith or with the sale thereof), 3 per centum;

(2) Other automobiles and motorcycles, (including tires, inner tubes, parts, and accessories therefor, sold on or in connection therewith or with the sale thereof), except tractors, 5 per centum;

(3) Tires, inner tubes, parts, or accessories, for any of the articles enumerated in subdivision (1) or (2), sold to any person other than a manufacturer or producer of any of the articles enumerated in subdivision (1) or (2), 5 per centum;

(4) Pianos, organs (other than pipe organs), piano players, graphophones, phonographs, talking machines, music boxes, and records used in connection with any musical instrument, piano player, graphophone, phonograph, or talking machine, 5 per centum;

(5) Tennis rackets, nets, racket covers and presses, skates, snowshoes, skis, toboggans, canoe paddles and cushions, polo mallets, baseball bats, gloves, masks, protectors, shoes and uniforms, football helmets, harness and goals, basket-ball goals and uniforms, golf bags and clubs, lacrosse sticks, balls of all kinds, including baseballs, footballs, tennis, golf, lacrosse, billiard and pool balls, fishing rods and reels, billiard and pool tables, chess and checker boards and pieces, dice, games and parts of games (except playing cards and children's toys and games), and all similar articles commonly or commercially known as sporting goods, 10 per centum;

(6) Chewing gum or substitutes therefor, 3 per centum;

(7) Cameras, weighing not more than 100 pounds, 10 per centum;

(8) Photographic films and plates, other than moving-picture films, 5 per centum;

- (9) Candy, 5 per centum;
- (10) Firearms, shells, and cartridges, except those sold for the use of the United States, any State, Territory, or possession of the United States, any political subdivision thereof, the District of Columbia, or any foreign country while engaged against the German Government in the present war, 10 per centum;
- (11) Hunting and bowie knives, 10 per centum;
- (12) Dirk knives, daggers, sword canes, stillietos, and brass or metallic knuckles, 100 per centum;
- (13) Portable electric fans, 5 per centum;
- (14) Thermos and thermostatic bottles, carafes, jugs, or other thermo-static containers, 5 per centum;
- (15) Cigar or cigarette holders and pipes, composed wholly or in part of meerschaum or amber, humidors, and smoking stands, 10 per centum;
- (16) Automatic slot-device vending machines, 5 per centum, and automatic, slot-device weighing machines, 10 per centum; if the manufacturer, producer, or importer of any such machine operates it for profit, he shall pay a tax in respect to each such machine put into operation equivalent to 5 per centum of its fair market value in the case of a vending machine, and 10 per centum of its fair market value in the case of a weighing machine;
- (17) Liveries and livery boots and hats, 10 per centum;
- (18) Hunting and shooting garments and riding habits, 10 per centum;
- (19) Articles made of fur on the hide or pelt, or of which any such fur is the component material of chief value, 10 per centum;
- (20) Yachts and motor boats not designed for trade, fishing, or national defense; and pleasure boats and pleasure canoes if sold for more than \$15, 10 per centum; and
- (21) Toilet soaps and toilet soap powders, 3 per centum.

If any manufacturer, producer, or importer of any of the articles enumerated in this section customarily sells such articles both at wholesale and at retail, the tax in the case of any articles sold by him at retail shall be computed on the price for which like articles are sold by him at wholesale.

The taxes imposed by this section shall, in the case of any article in respect to which a corresponding tax is imposed by section 600 of the Revenue Act of 1917, be in lieu of such tax. (Act Feb. 24, 1919, c. 18, § 900.)

§ 5632c. Fraudulent sale or lease of motion-picture films.—If any person manufactures, produces or imports any article enumerated in section 900, or leases or licenses for exhibition any positive motion-picture film containing a picture ready for projection, and, whether through any agreement, arrangement, or understanding, or otherwise, sells, leases or licenses such article at less than the fair market price obtainable therefor, either (a) in such manner as directly or indirectly to benefit such person or any person directly or indirectly interested in the business of such person, or (b) with intent to cause such benefit, the amount for which such article is sold, leased or licensed shall be taken to be the amount which would have been received from the sale, lease or license of such article if sold, leased or licensed at the fair market price. (Act Feb. 24, 1919, c. 18, § 901.)

Note.—§ 900 is now § 5632b.

§ 5632d. Works of art.—There shall be levied, assessed, collected, and paid upon sculpture, paintings, statuary, art porcelains, and bronzes, sold by any person other than the artist, a tax equivalent to 10 per centum of the price for which so sold. This section shall not apply to the sale of any article to an educational institution or public art museum. (Act Feb. 24, 1919, c. 18, § 902.)

§ 5632e. Monthly returns and payments of tax.—Every person liable for any tax imposed by section 900, 902, or 906, shall make monthly returns under oath in duplicate and pay the taxes imposed by such sections to the collector for the district in which is located the principal place of business. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax a penalty of 5 per centum, together with interest at the rate of 1 per centum for each full month, from the time when the tax became due. (Act Feb. 24, 1919, c. 18, § 903.)

Note.—§ 900 is now § 5632b; § 902 is now § 5632d; § 906 is now § 5632h.

§ 5632f. Tax on sales by dealers.—On and after May 1, 1919, there shall be levied, assessed, collected, and paid a tax equivalent to 10 per centum of so much of the amount paid for any of the following articles as is in excess of the price hereinafter specified as to each such article, when such article is sold by or for a dealer or his estate on or after such date for consumption or use—

- (1) Carpets and rugs, including fiber, except imported and American rugs made principally of wool, on the amount in excess of \$5 per square yard;
 - (2) Picture frames, on the amount in excess of \$10 each;
 - (3) Trunks, on the amount in excess of \$50 each;
 - (4) Valises, traveling bags, suit cases, hat boxes used by travelers, and fitted toilet cases, on the amount in excess of \$25 each;
 - (5) Purses, pocketbooks, shopping and hand bags, on the amount in excess of \$7.50 each;
 - (6) Portable lighting fixtures, including lamps of all kinds and lamp shades, on the amount in excess of \$25 each;
 - (7) Umbrellas, parasols, and sun shades, on the amount in excess of \$4 each;
 - (8) Fans, on the amount in excess of \$1 each;
 - (9) House or smoking coats or jackets, and bath or lounging robes, on the amount in excess of \$7.50 each;
 - (10) Men's waistcoats, sold separately from suits, on the amount in excess of \$5 each;
 - (11) Women's and misses' hats, bonnets, and hoods, on the amount in excess of \$15 each;
 - (12) Men's and boys' hats, on the amount in excess of \$5 each;
 - (13) Men's and boys' caps, on the amount in excess of \$2 each;
 - (14) Men's, women's, misses', and boys' boots, shoes, pumps, and slippers, not including shoes or appliances made to order for any person having a crippled or deformed foot or ankle, on the amount in excess of \$10 per pair;
 - (15) Men's and boys' neckties and neckwear, on the amount in excess of \$2 each;
 - (16) Men's and boys' silk stockings or hose, on the amount in excess of \$1 per pair;
 - (17) Women's and misses' silk stockings or hose, on the amount in excess of \$2 per pair;
 - (18) Men's shirts, on the amount in excess of \$3 each;
 - (19) Men's, women's, misses', and boys' pajamas, night gowns, and underwear, on the amount in excess of \$5 each; and
 - (20) Kimonos, petticoats, and waists, on the amount in excess of \$15 each.
- (b) The tax imposed by this section shall not apply (1) to any article enumerated in paragraphs (2) to (8), both inclusive, of subdivision (a), if such article is made of, or ornamented, mounted, or fitted with, precious metals or imitations thereof or ivory, or (2) to any article made of fur on the hide or pelt, or of which any such fur is the component material of chief value, or to (3) any article enumerated in subdivision (17) or (18) of section 900.

(c) The taxes imposed by this section shall be paid by the purchaser to the vendor at the time of the sale and shall be collected, returned, and paid to the United States by such vendor in the same manner as provided in section 502. (Act Feb. 24, 1919, c. 18, § 904.)

Note.—§ 502 is now § 5597; § 900 is now § 5632b.

§ 5632g. Jewelry.—On and after April 1, 1919, there shall be levied, assessed, collected, and paid in lieu of the tax imposed by subdivision (e) of section 600 of the Revenue Act of 1917) upon all articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semiprecious stones, and imitations thereof; articles made of, or orna-

mented, mounted or fitted with, precious metals or imitations thereof or ivory (not including surgical instruments); watches; clocks, opera glasses; lorgnettes; marine glasses; field glasses; and binoculars; upon any of the above when sold by or for a dealer or his estate for consumption or use, a tax equivalent to 5 per centum of the price for which so sold.

Every person selling any of the articles enumerated in this section shall make returns under oath in duplicate (monthly or quarterly as the Commissioner, with the approval of the Secretary, may prescribe and pay the taxes imposed in respect to such articles by this section to the collector for the district in which is located the principal place of business. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax a penalty of 5 per centum, together with interest at the rate of 1 per centum of each full month, from the time when the tax became due. (Act Feb. 24, 1919, c. 18, § 905.)

§ 5632h. Motion-picture business.—On and after the 1st day of May, 1919, any person engaged in the business of leasing or licensing for exhibition positive motion-picture films containing pictures ready for projection shall pay monthly an excise tax in respect to carrying on such business equal to 5 per centum of the total rentals earned from each such lease or license during the preceding month. If a person owning such a film exhibits it for profit he shall pay a tax equivalent to 5 per centum of the fair rental or license value of such film at the time and place where and for the period during which exhibited. If any such person has, prior to December 6, 1918, made a bona fide contract with any person for the lease or licensing, after the tax imposed by this section takes effect, of such a film for exhibition for profit, and if such contract does not permit the adding of the whole of the tax imposed by this section to the amount to be paid under such contract then the lessee or licensee shall, in lieu of the lessor or licensor, pay so much of such tax as is not so permitted to be added to the contract price. The tax imposed by this section shall be in lieu of the tax imposed by subdivisions (c) and (d) of section 600 of the Revenue Act of 1917. (Act Feb. 24, 1919, c. 18, § 906.)

§ 5632i. Toilet articles and drugs.—(a) On and after May 1, 1919, there shall be levied, assessed, collected and paid (in lieu of the taxes imposed by subdivisions (g) and (h) of section 600 of the Revenue Act of 1917) a tax of 1 cent for each 25 cents or fraction thereof of the amount paid for any of the following articles when sold by or for a dealer or his estate on or after such date for consumption or use:

(1) Perfumes, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, tooth and mouth washes, dentrifices, tooth pastes, aromatic cachous, toilet powders (other than soap powders), or any similar substance, article, or preparation by whatsoever name known or distinguished, any of the above which are used or applied or intended to be used or applied for toilet purposes;

(2) Pills, tablets, powders, tinctures, troches or lozenges, sirups, medicinal cordials or bitters, anodynes, tonics, plasters, liniments, salves, ointments, paste, drops, waters (except those taxed under section 5624 of this Act), essences, spirits, oils, and other medicinal preparations, compounds, or compositions (not including serums and antitoxins), upon the amount paid for any of the above as to which the manufacturer or producer claims to have any private formula, secret, or occult art for making or preparing the same, or has or claims to have any exclusive right or title to the making or preparing the same, or which are prepared, uttered, vended, or exposed for sale under any letters patent, or trade-mark, or which (if prepared by any formula, published or unpublished) are held out or recommended to the public by the makers, vendors, or proprietors thereof as proprietary medicines or medicinal proprietary articles or preparations, or as remedies or specifics for any disease, diseases, or affection whatever affecting the human or animal body: Provided, That the provisions of this section shall

not apply to the sale of vaccines and bacterines which are not advertised to the general lay public, nor to the sale by a physician in personal attendance upon a patient of medicinal preparations not so advertised.

(b) The taxes imposed by this section shall be collected by whichever of the following methods the Commissioner may deem expedient: (1) by stamp affixed to such article by the vendor, the cost of which shall be reimbursed to the vendor by the purchaser; or (2) by payment to the vendor by the purchaser at the time of the sale, the taxes so collected being returned and paid to the United States by such vendor in the same manner as provided in section 502. (Act Feb. 24, 1919, c. 18, § 907.)

Note.—§ 502 is now § 5597.

TITLE X.—SPECIAL TAXES.

§ 5632j. Corporation excise tax.—On and after July 1, 1918, in lieu of the tax imposed by the first subdivision of section 407 of the Revenue Act of 1916—

(1) Every domestic corporation shall pay annually a special excise tax with respect to carrying on or doing business, equivalent to \$1 for each \$1,000 of so much of the fair average value of its capital stock for the preceding year ending June 30 as is in excess of \$5,000. In estimating the value of capital stock the surplus and undivided profits shall be included;

(2) Every foreign corporation shall pay annually a special excise tax with respect to carrying on or doing business in the United States, equivalent to \$1 for each \$1,000 of the average amount of capital employed in the transaction of its business in the United States during the preceding year ending June thirtieth.

(b) In computing the tax in the case of insurance companies such deposits and reserve funds as they are required by law or contract to maintain or hold for the protection of or payment to or apportionment among policyholders shall not be included.

(c) The taxes imposed by this section shall not apply in any year to any corporation which was not engaged in business (or in the case of a foreign corporation not engaged in business in the United States) during the preceding year ending June 30, nor to any corporation enumerated in section 231. The taxes imposed by this section shall apply to mutual insurance companies, and in the case of every such domestic company the tax shall be equivalent to \$1 for each \$1,000 of the excess over \$5,000 of the sum of its surplus or contingent reserves maintained for the general use of the business and any reserves the net additions to which are included in net income under the provisions of Title II, as of the close of the preceding accounting period used by such company for purposes of making its income tax return: Provided, That in the case of a foreign mutual insurance company the tax shall be equivalent to \$1 for each \$1,000 of the same proportion of the sum of such surplus and reserves, which the reserve fund upon business transacted within the United States is of the total reserve upon business transacted, as of the close of the preceding accounting period used by such company for purposes of making its income tax return.

(d) Section 257 shall apply to all returns filed with the Commissioner for purposes of the tax imposed by this section. (Act Feb. 24, 1919, c. 18, § 1000.)

Note.—§ 231 is now § 5542; § 257 is now § 5560.

§ 5632k. Brokers; theaters, shows and other places of amusement; motor vehicles; liquor dealers.—On and after January 1, 1919, there shall be levied, collected, and paid annually the following special taxes—

(1) Brokers shall pay \$50. Every person whose business it is to negotiate purchases or sales of stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, other securities, produce or merchandise, for others, shall be regarded as a broker. If a broker is a member of a stock exchange, or if he is a member of any produce exchange, board of trade, or similar organization, where produce or merchandise is sold, he shall pay an additional amount as follows: If the average value, during the preceding year ending June 30, of a seat or membership in such exchange or organization was \$2,000 or more but not more than \$5,000, \$100; if such value was more than \$5,000, \$150.

(2) Pawnbrokers shall pay \$100. Every person whose business or occupation it is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatever, as security for the repayment of money loaned thereon, shall be regarded as a pawnbroker.

(3) Ship brokers shall pay \$50. Every person whose business it is as a broker to negotiate freights and other business for the owners of vessels, or for the shippers or consignors or consignees of freight carried by vessels, shall be regarded as a ship broker.

(4) Customhouse brokers shall pay \$50. Every person whose occupation it is, as the agent of others, to arrange entries and other customhouse papers, or transact business at any port of entry relating to the importation or exportation of goods, wares or merchandise, shall be regarded as a customhouse broker.

(5) Proprietors of theaters, museums, and concert halls, where a charge for admission is made, having a seating capacity of not more than two hundred and fifty, shall pay \$50; having a seating capacity of more than two hundred and fifty and not exceeding five hundred, shall pay \$100; having a seating capacity exceeding five hundred and not exceeding eight hundred, shall pay \$150; having a seating capacity of more than eight hundred, shall pay \$200. Every edifice used for the purpose of dramatic or operatic or other representations, plays, or performances, for admission to which entrance money is received, not including halls or armories rented or used occasionally for concerts or theatrical representations, and not including edifices owned by religious, educational or charitable institutions, societies or organizations where all the proceeds from admissions inure exclusively to the benefit of such institutions, societies or organizations or exclusively to the benefit of persons in the military or naval forces of the United States, shall be regarded as a theater: Provided, That in cities, towns, or villages of five thousand inhabitants or less the amount of such payment shall be one-half of that above stated: Provided further, That whenever any such edifice is under lease at the time the tax is due, the tax shall be paid by the lessee, unless otherwise stipulated between the parties to the lease.

(6) The proprietor or proprietors of circuses shall pay \$100. Every building, space, tent, or area, where feats of horsemanship or acrobatic sports or theatrical performances not otherwise provided for in this section are exhibited shall be regarded as a circus: Provided, That no special tax paid in one State, Territory, or the District of Columbia shall exempt exhibitions from the tax in another State, Territory, or the District of Columbia, and but one special tax shall be imposed for exhibitions within any one State, Territory, or District.

(7) Proprietors or agents of all other public exhibitions or shows for money not enumerated in this section shall pay \$15: Provided, That a special tax paid in one State, Territory, or the District of Columbia, shall not exempt exhibitions from the tax in another State, Territory, or the District of Columbia, and but one special tax shall be required for exhibitions within any one State, Territory, or the District of Columbia: Provided further, That this paragraph shall not apply to Chautauquas, lecture lyceums, agricultural or industrial fairs, or exhibitions held under the auspices of religious or charitable associations: Provided further, That an aggregation of entertainments, known as a street fair, shall not pay a larger tax than \$100 in any State, Territory, or in the District of Columbia.

(8) Proprietors of bowling alleys and billard rooms shall pay \$10 for each alley or table. Every building or place where bowls are thrown or where games of billiards or pool are played, except in private homes, shall be regarded as a bowling alley or a billiard room, respectively.

(9) Proprietors of shooting galleries shall pay \$20. Every building, space, tent, or area, where a charge is made for the discharge of firearms at any form of target shall be regarded as a shooting gallery.

(10) Proprietors of riding academies shall pay \$100. Every building, space, tent, or area, where a charge is made for instruction in horsemanship or for facilities for the practice of horsemanship shall be regarded as a riding academy.

(11) Persons carrying on the business of operating or renting passenger automobiles for hire shall pay \$10 for each such automobile having a seating capacity of more than two and not more than seven, and \$20 for each such automobile having a seating capacity of more than seven.

(12) Every person carrying on the business of a brewer, distiller, wholesale liquor dealer, retail liquor dealer, wholesale dealer in malt liquor, retail dealer in malt liquor, or manufacturer of stills, as defined in section 3244 as amended and section 3247 of the Revised Statutes, in any State, Territory, or District of the United States contrary to the laws of such State, Territory, or District, or in any place therein in which carrying on such business is prohibited by local or municipal law, shall pay, in addition to all other taxes, special or otherwise, imposed by existing law or by this Act, \$1,000.

The payment of the tax imposed by this subdivision shall not be held to exempt any person from any penalty or punishment provided for by the laws of any State, Territory, or District for carrying on such business in such State, Territory, or District, or in any manner to authorize the commencement or continuance of such business contrary to the laws of such State, Territory, or District, or in places prohibited by local or municipal law.

The taxes imposed by this section shall, in the case of persons upon whom a corresponding tax is imposed by section 407 of the Revenue Act of 1916, be in lieu of such tax. (Act Feb. 24, 1919, c. 18, § 1001.)

§ 5632l. Manufacturers of tobacco.—On and after January 1, 1919, there shall be levied, collected, and paid annually, in lieu of the taxes imposed by section 408 of the Revenue Act of 1916, the following special taxes, the amount of such taxes to be computed on the basis of the sales for the preceding year ending June 30—

Manufacturers of tobacco whose annual sales do not exceed fifty thousand pounds each pay \$6;

Manufacturers of tobacco whose annual sales exceed fifty thousand and do not exceed one hundred thousand pounds shall pay \$12;

Manufacturers of tobacco whose annual sales exceed one hundred thousand and do not exceed two hundred thousand pounds shall each pay \$24;

Manufacturers of tobacco whose annual sales exceed two hundred thousand pounds shall each pay \$24, and at the rate of 16 cents per thousand pounds, or fraction thereof, in respect to the excess over two hundred thousand pounds;

Manufacturers of cigars whose annual sales do not exceed fifty thousand cigars shall each pay \$4;

Manufacturers of cigars whose annual sales exceed fifty thousand and do not exceed one hundred thousand cigars shall each pay \$6;

Manufacturers of cigars whose annual sales exceed one hundred thousand and do not exceed two hundred thousand cigars shall each pay \$12;

Manufacturers of cigars whose annual sales exceed two hundred thousand and do not exceed four hundred thousand cigars shall each pay \$24;

Manufacturers of cigars whose annual sales exceed four hundred thousand cigars shall each pay \$24, and at the rate of 10 cents per thousand cigars, or fraction thereof, in respect to the excess over four hundred thousand cigars;

Manufacturers of cigarettes, including small cigars weighing not more than three pounds per thousand shall each pay at the rate of 6 cents for every ten thousand cigarettes, or fraction thereof.

In arriving at the amount of special tax to be paid under this section, and in the levy and collection of such tax, each person engaged in the manufacture of more than one of the classes of articles specified in this section shall be considered and deemed a manufacturer of each class separately. (Act Feb. 24, 1919, c. 18, § 1002.)

§ 5632m. Pleasure boats.—Sixty days after the passage of this Act, and thereafter on July 1, in each year, and also at the time of the original purchase of a new boat by a user, if on any other date than July 1, there shall be levied, assessed, collected, and paid in lieu of the tax imposed by section 603 of the Revenue Act of 1917, upon the use of yachts, pleasure boats, power boats, and sailing boats, of over five net tons, and motor boats with fixed engines, not used exclusively for trade, fishing, or national defense, or not built according to plans and specifications approved by the Navy Department, a special excise tax to be based on each yacht or boat, at rates as follows: Yachts, pleasure boats, power boats, motor boats with fixed engines, and sailing boats, of over five net tons, length not over fifty

feet, \$1 for each foot; length over fifty feet and not over one hundred feet, \$2 for each foot; length over one hundred feet, \$4 for each foot; motor boats of not over five net tons with fixed engines \$10.

In determining the length of such yachts, pleasure boats, power boats, motor boats with fixed engines, and sailing boats, the measurement of overall length shall govern.

In the case of a tax imposed at the time of the original purchase of a new boat on any other date than July 1, and in the case of the tax taking effect sixty days after the passage of this Act, the amount to be paid shall be the same number of twelfths of the amount of the tax as the number of calendar months (including the month of sale, or the month in which is included the sixty-first day after the passage of this Act, as the case may be) remaining prior to the following July 1.

If the tax imposed by section 603 of the Revenue Act of 1917, for the fiscal year ending June 30, 1919, has been paid in respect to the use of any boat, the amount so paid shall under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, be credited upon the first tax due under this section in respect to the use of such boat, or be refunded to the person paying the first tax imposed by this section in respect to the use of such boat. (Act Feb. 24, 1919, c. 18, § 1003.)

§ 5632n. Receipt for special taxes paid.—If the tax imposed by section 407 or 408 of the Revenue Act of 1916, for the fiscal year ending June 30, 1919, has been paid by any person subject to the corresponding tax imposed by this title, collectors may issue a receipt in lieu of special tax stamp for the amount by which the tax under this title is in excess of that paid or payable and evidenced by stamp under the Revenue Act of 1916. Such receipt shall be posted as in the case of the special tax stamp, as provided by law, and with it, within the place of business of the taxpayer.

If the corresponding tax imposed by section 407 of the Revenue Act of 1916 was not payable by stamp, the amount paid under such section for any period for which a tax is also imposed by this title may be credited against the tax imposed by this title. (Act Feb. 24, 1919, c. 18, § 1004.)

§ 5632o. Conducting business without payment of tax.—Any person who carries on any business or occupation for which a special tax is imposed by sections 1000, 1001, or 1002, without having paid the special tax therein provided, shall, besides being liable for the payment of such special tax, be subject to a penalty of not more than \$1,000 or to imprisonment for not more than one year, or both. (Act Feb. 24, 1919, c. 18, § 1005.)

Note.—§ 1000 is now § 5632j; § 1001 is now § 5632k; § 1002 is now § 5632l.

§ 5632p. Forfeiture and confiscation of opium and coca leaves.—All opium, its salts, derivatives, and compounds, and coca leaves, salts, derivatives, and compounds thereof, which may not be under seizure or which may hereafter be seized by the United States Government from any person or persons charged with any violation of the Act of October 1, 1890, as amended by the Acts of March 3, 1897, February 9, 1909, and January 17, 1914, or the Act of December 17, 1914, shall upon conviction of the person or persons from whom seized be confiscated by and forfeited to the United States; and the Secretary is hereby authorized to deliver for medical or scientific purposes to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulation as may be prescribed by the Commissioner, with the approval of the Secretary, any of the drugs so seized, confiscated, and forfeited to the United States.

The provisions of this section shall also apply to any of the aforesaid drugs seized or coming into the possession of the United States in the enforcement of any of the above-mentioned Acts where the owner or owners thereof are unknown. None of the aforesaid drugs coming into possession of the United States under the operation of said Acts, or the provisions of this section, shall be destroyed without certification by a committee appointed by the Commissioner, with the approval of the Secretary, that they are of no value for medical or scientific purposes. (Act Feb. 24, 1919, c. 18, § 1008.)

§ 5632pp. Repeal of laws.—The Act approved October 22, 1914, entitled "An Act to increase the internal revenue, and for other purposes," and the joint

resolution approved December 17, 1915, entitled "Joint resolution extending the provisions of the Act entitled 'An Act to increase the internal revenue, and for other purposes,' approved October twenty-second, nineteen hundred and sixteen," are hereby repealed, except that the provisions of such Act shall remain in force for the assessment and collection of all special taxes imposed by sections 3 and 4 thereof, or by such section as extended by such joint resolution, for any year or part thereof ending prior to January 1, 1917, and of all other taxes imposed by such Act, or by such Act as so extended, accrued prior to September 8, 1916, and for the imposition and collection of all penalties or forfeitures which have accrued or may accrue in relation to any of such taxes. (Act Feb. 24, 1919, c. 18, § 1009.)

TITLE XI.—STAMP TAXES.

§ 5632q. **Imposition of taxes.**—On and after April 1, 1919, there shall be levied, collected, and paid, for and in respect of the several bonds, debentures, or certificates of stock and of indebtedness, and other documents, instruments, matters, and things mentioned and described in Schedule A of this title—5633 below—or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, are written or printed, by any person who makes, signs, issues, sells, removes, consigns, or ships the same, or for whose use or benefit the same are made, signed, issued, sold, removed, consigned, or shipped, the several taxes specified in such schedule. The taxes, imposed by this section shall, in the case of any article upon which a corresponding stamp tax is now imposed by law, be in lieu of such tax. (Act Feb. 24, 1919, c. 18, § 1100.)

§ 5632r. **Exemptions.**—There shall not be taxed under this title any bond, note, or other instrument, issued by the United States, or by any foreign Government, or by any State, Territory, or the District of Columbia, or local subdivision thereof, or municipal or other corporation exercising the taxing power; or any bond of indemnity required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States; or stocks and bonds issued by cooperative building and loan associations which are organized and operated exclusively for the benefit of their members and make loans only to their shareholders, or by mutual ditch or irrigating companies. (Act Feb. 24, 1919, c. 18, § 1101.)

§ 5632s. **Offenses.**—Whoever—(a) Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid;

(b) Consigns or ships, or causes to be consigned or shipped, by parcel post any parcel, package, or article without the full amount of tax being duly paid;

(c) Manufactures or imports and sells, or offers for sale, or causes to be manufactured or imported and sold, or offered for sale, any playing cards, package, or other article without the full amount of tax being duly paid;

(d) Makes use of any adhesive stamp to denote any tax imposed by this title without canceling or obliterating such stamp as prescribed in section 1104;

Is guilty of a misdemeanor and upon conviction thereof shall pay a fine of not more than \$100 for each offense. (Act Feb. 24, 1919, c. 18, § 1102.)

Note.—§ 1104 is now § 5632u.

§ 5632t. **Additional offenses.**—Whoever—(a) Fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this title;

(b) Fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, (1) any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or

removed from any other vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title; or (2) any adhesive stamp or the impression of any stamp, die, plate, or other article of insufficient value; or (3) any forged or counterfeited stamp, or the impression of any forged or counterfeited stamp, die, plate, or other article;

(c) Willfully removes, or alters the cancellation, or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has been already used, or knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same;

(d) Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article;

Is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than five years, or both, and any such reused, canceled, or counterfeited stamp and the vellum, parchment, document, paper, package, or article upon which it is placed or impressed shall be forfeited to the United States. (Act Feb. 24, 1919, c. 18, § 1103.)

§ 5632u. Cancellation of stamps.—Whenever an adhesive stamp is used for denoting any tax imposed by this title, except as hereinafter provided, the person using or affixing the same shall write or stamp or cause to be written or stamped thereupon the initials of his or its name and the date upon which the same is attached or used, so that the same may not again be used: Provided. That the Commissioner may prescribe such other method for the cancellation of such stamps as he may deem expedient. (Act Feb. 24, 1919, c. 18, § 1104.)

§ 5632v. Stamps; laws applicable.—The Commissioner shall cause to be prepared and distributed for the payment of the taxes prescribed in this title suitable stamps denoting the tax on the document, articles, or thing to which the same may be affixed, and shall prescribe such method for the affixing of said stamps in substitution for or in addition to the method provided in this title, as he may deem expedient.

(b) The Commissioner, with the approval of the Secretary, is authorized to procure any of the stamps provided for in this title by contract whenever such stamps can not be speedily prepared by the Bureau or Engraving and Printing; but this authority shall expire on January 1, 1920, except as to imprinted stamps furnished under contract, authorized by the Commissioner.

(c) All internal-revenue laws relating to the assessment and collection of taxes are hereby extended to and made a part of this title, so far as applicable, for the purpose of collecting stamp taxes omitted through mistake or fraud from any instrument, document, paper, writing, parcel, package, or article named herein. (Act Feb. 24, 1919, c. 18, § 1105.)

§ 5632w. Sale of stamps.—The Commissioner shall furnish to the Postmaster General without prepayment a suitable quantity of adhesive stamps to be distributed to and kept on sale by the various postmasters in the United States. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of and render accounts to the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal-revenue collections. (Act Feb. 24, 1919, c. 18, § 1106.)

§ 5632x. Stamps for depositaries and assistant treasurers.—The collectors of the several districts shall furnish without prepayment to any assistant treasurer or designated depositary of the United States located in their respective collection districts a suitable quantity of adhesive stamps for sale. In such cases the collector may require a bond, with sufficient sureties, to an amount equal to the value of the adhesive stamps so furnished, conditioned for the faithful return, whenever so required, of all quantities or

amounts undisposed of, and the payment monthly of all quantities or amounts sold or not remaining on hand. The Secretary may from time to time make such regulations as he may find necessary to insure the safe-keeping or prevent the illegal use of all such adhesive stamps. (Act Feb. 24, 1919, c. 18, § 1107.)

§ 5633. Schedule A.—1. Bonds of indebtedness: On all bonds, debentures, or certificates of indebtedness issued by any person, and all instruments, however termed, issued by any corporation with interest coupons or in registered form, known generally as corporate securities, on each \$100 of face value or fraction thereof, 5 cents: Provided, That every renewal of the foregoing shall be taxed as a new issue: Provided further, That when a bond conditioned for the repayment or payment of money is given in a penal sum greater than the debt secured, the tax shall be based upon the amount secured.

2. Bonds, indemnity and surety: On all bonds executed for indemnifying any person who shall have become bound or engaged as surety, and on all bonds executed for the due execution or performance of any contract, obligation, or requirement, or the duties of any office or position, and to account for money received by virtue thereof, and on all policies of guaranty and fidelity insurance, including policies guaranteeing titles to real estate and mortgage guarantee policies, and on all other bonds of any description, made, issued, or executed, not otherwise provided for in this schedule, except such as may be required in legal proceedings, 50 cents: Provided, That where a premium is charged for the issuance, execution, renewal or continuance of such bond the tax shall be 1 cent on each dollar or fractional part thereof of the premium charged: Provided further, That policies of reinsurance shall be exempt from the tax imposed by this subdivision.

3. Capital stock, issued: On each original issue, whether on organization or reorganization, of certificates of stock, or of profits, or of interest in property or accumulations, by any corporation, on each \$100 of face value or fraction thereof, 5 cents: Provided, That where a certificate is issued without face value, the tax shall be 5 cents per share, unless the actual value is in excess of \$100 per share, in which case the tax shall be 5 cents on each \$100 of actual value or fraction thereof.

The stamps representing the tax imposed by this subdivision shall be attached to the stock books and not to the certificates issued.

4. Capital stock, sales or transfers: On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to shares or certificates of stock or of profits or of interest in property or accumulations in any corporation, or to rights to subscribe for or to receive such shares or certificates, whether made upon or shown by the books of the corporation, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale, whether entitling the holder in any manner to the benefit of such stock, interest, or rights, or not, on each \$100 of face value or fraction thereof, 2 cents, and where such shares are without par or face value, the tax shall be 2 cents on the transfer or sale or agreement to sell on each share, unless the actual value thereof is in excess of \$100 per share, in which case the tax shall be 2 cents on each \$100 of actual value or fraction thereof: Provided, That it is not intended by this title to impose a tax upon an agreement evidencing a deposit of certificates as collateral security for money loaned thereon, which certificates are not actually sold, nor upon the delivery or transfer for such purpose of certificates so deposited: Provided further, That the tax shall not be imposed upon deliveries or transfers to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased same, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: Provided further, That in case of sale where the evidence of transfer is shown only by the books of the corporation the stamp shall be placed upon such books; and where the change of ownership is by transfer of the certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale

or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. Any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale, or who in pursuance of any such sale delivers any certificate or evidence of the sale of any stock, interest or right, or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000, or be imprisoned not more than six months, or both.

5. Produce, sales of, on exchange: Upon each sale, agreement of sale, or agreement to sell (not including so-called transferred or scratch sales), any products or merchandise at, or under the rules or usages of, any exchange, or board of trade, or other similar place, for future delivery, for each \$100 in value of the merchandise covered by said sale or agreement of sale or agreement to sell, 2 cents, and for each additional \$100 or fractional part thereof in excess of \$100, 2 cents: Provided, That on every sale or agreement of sale or agreement to sell as aforesaid there shall be made and delivered by the seller to the buyer a bill, memorandum, agreement to sell, or other evidence of such sale, agreement of sale, or agreement to sell, to which there shall be affixed a lawful stamp or stamps in value equal to the amount of the tax on such sale: Provided further, That sellers of commodities described herein, having paid the tax provided by this subdivision, may transfer such contracts to a clearing-house corporation or association, and such transfer shall not be deemed to be a sale, or agreement of sale, or an agreement to sell within the provisions of this Act, provided that such transfer shall not vest any beneficial interest in such clearing-house association but shall be made for the sole purpose of enabling such clearing-house association to adjust and balance the accounts of the members of such clearing-house association on their several contracts. Every such bill, memorandum, or other evidence of sale or agreement to sell shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers; and any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale or agreement of sale, or agreement to sell, or who in pursuance of any such sale, agreement of sale, or agreement to sell, delivers any such products or merchandise without a bill, memorandum, or other evidence thereof as herein required, or who delivers such bill, memorandum, or other evidence of sale, or agreement to sell, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000 or be imprisoned not more than six months, or both.

No bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell, in case of cash sales of products or merchandise for immediate or prompt delivery which in good faith are actually intended to be delivered shall be subject to this tax.

6. Drafts or checks (payable otherwise than at sight or on demand) upon their acceptance or delivery within the United States whichever is prior, promissory notes, except bank notes issued for circulation, and for each renewal of the same, for a sum not exceeding \$100, 2 cents; and for each additional \$100, or fractional part thereof, 2 cents.

This subdivision shall not apply to a promissory note secured by the pledge of bonds or obligations of the United States issued after April 24, 1917, or secured by the pledge of a promissory note which itself is secured by the pledge of such bonds or obligations: Provided, That in either case the par value of such bonds or obligations shall be not less than the amount of such note.

7. Conveyances: Deed, instrument, or writing, whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale,

exceeds \$100 and does not exceed \$500, 50 cents; and for each additional \$500 or fractional part thereof, 50 cents. This subdivision shall not apply to any instrument or writing given to secure a debt.

8. Entry of any goods, wares, or merchandise at any customhouse, either for consumption or warehousing, not exceeding \$100 in value, 25 cents; exceeding \$100 and not exceeding \$500 in value, 50 cents; exceeding \$500 in value, \$1.

9. Entry for the withdrawal of any goods or merchandise from customs bonded warehouse, 50 cents.

10. Passage ticket, one way or round trip, for each passenger, sold or issued in the United States for passage by any vessel to a port or place not in the United States, Canada, or Mexico, if costing not exceeding \$30, \$1; costing more than \$30 and not exceeding \$60, \$3; costing more than \$60, \$5. This subdivision shall not apply to passage tickets costing \$10 or less.

11. Proxy for voting at any election for officers, or meeting for the transaction of business, of any corporation, except religious, educational, charitable, fraternal, or literary societies, or public cemeteries, 10 cents.

12. Power of attorney granting authority to do or perform some act for or in behalf of the grantor, which authority is not otherwise vested in the grantee, 25 cents. This subdivision shall not apply to any papers necessary to be used for the collection of claims from the United States or from any State for pensions, back pay, bounty, or for property lost in the military or naval service, or to powers of attorney required in bankruptcy cases.

13. Playing cards: Upon every pack of playing cards containing not more than fifty-four cards, manufactured or imported, and sold, or removed for consumption or sale, a tax of 8 cents per pack.

14. Parcel-post packages: Upon every parcel or package transported from one point in the United States to another by parcel post on which the postage amounts to 25 cents or more, a tax of 1 cent for each 25 cents or fractional part thereof charged for such transportation, to be paid by the consignor.

No such parcel or package shall be transported until a stamp or stamps representing the tax due shall have been affixed thereto.

15. On each policy of insurance, or certificate, binder, covering note, memorandum, cablegram, letter, or other instrument by whatever name called whereby insurance is made or renewed upon property within the United States (including rents and profits) against peril by sea or on inland waters or in transit on land including transshipments and storage at termini or way points) or by fire, lightning, tornado, wind-storm, bombardment, invasion, insurrection or riot, issued to or for or in the name of a domestic corporation or partnership or an individual resident of the United States by any foreign corporation or partnership or any individual not a resident of the United States, when such policy or other instrument is not signed or countersigned by an officer or agent of the insurer in a State, Territory, or district of the United States within which such insurer is authorized to do business, a tax of 3 cents on each dollar, or fractional part thereof of the premium charged: Provided, That policies of re-insurance shall be exempt from the tax imposed by this subdivision.

Any person to or for whom or in whose name any such policy or other instrument is issued, or any solicitor or broker acting for or on behalf of such person in the procurement of any such policy or other instrument, shall affix the proper stamps to such policy or other instrument, and for failure to affix such stamps with intent to evade the tax shall, in addition to other penalties provided therefor, pay a fine of double the amount of the tax. (Act Feb. 24, 1919, c. 18, § 1107.)

TITLE XII.—TAX ON EMPLOYMENT OF CHILD LABOR.

§ 5633a. Imposition of tax.—Every person (other than a bona fide boys' or girls' canning club organized by the Agricultural Department of a State and of the United States) operating (a) any mine or quarry situated in the United States in which children under the age of sixteen years have been employed or permitted to work during any portion of the taxable year; or (b) any mill, cannery, workshop, factory, or manufacturing establishment situated in the United States in which children under the age of fourteen years have been employed or permitted to work, or children between

the ages of fourteen and sixteen have been employed or permitted to work more than eight hours in any day or more than six days in any week, or after the hour of seven o'clock post meridian, or before the hour of six o'clock ante meridian, during any portion of the taxable year, shall pay for each taxable year, in addition to all other taxes imposed by law, an excise tax equivalent to 10 per centum of the entire net profits received or accrued for such year from the sale or disposition of the product of such mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment. (Act Feb. 24, 1919, c. 18, § 1200.)

§ 5633b. Computation of profits.—In computing net profits under the provisions of this title, for the purpose of the tax there shall be allowed as deductions from the gross amount received or accrued for the taxable year from the sale or disposition of such products manufactured within the United States the following items:

- (a) The cost of raw materials entering into the production;
- (b) Running expenses, including rentals, cost of repairs, and maintenance, heat, power, insurance management, and a reasonable allowance for salaries or other compensations for personal services actually rendered, and for depreciation;
- (c) Interest paid within the taxable year on debts or loans contracted to meet the needs of the business, and the proceeds of which have been actually used to meet such needs;
- (d) Taxes of all kinds paid during the taxable year with respect to the business or property relating to the production; and
- (e) Losses actually sustained within the taxable year in connection with the business of producing such products, including losses from fire, flood, storm, or other casualties, and not compensated for by insurance or otherwise. (Act Feb. 24, 1919, c. 18, § 1201.)

§ 5633c. Sales below market price.—If any such person during any taxable year or part thereof, whether under any agreement, arrangement, or understanding or otherwise, sells or disposes of any product of such mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment at less than the fair market price obtainable therefor either (a) in such manner as directly or indirectly to benefit such person or any person directly or indirectly interested in the business of such person; or (b) with intent to cause such benefit; the gross amount received or accrued for such year or part thereof from the sale or disposition of such product shall be taken to be the amount which would have been received or accrued from the sale or disposition of such product if sold at the fair market price. (Act Feb. 24, 1919, c. 18, § 1202.)

§ 5633d. Age certificate; mistake as to age.—No person subject to the provisions of this title shall be liable for the tax herein imposed if the only employment or permission to work which but for this section would subject him to the tax, has been of a child as to whom such person has in good faith procured at the time of employing such child or permitting him to work, and has since in good faith relied upon and kept on file a certificate, issued in such form, under such conditions and by such persons as may be prescribed by a board consisting of the Secretary, the Commissioner, and the Secretary of Labor, showing the child to be of such age as not to subject such person to the tax imposed by this title. Any person who knowingly makes a false statement or presents false evidence in or in relation to any such certificate or application therefor shall be punished by a fine of not less than \$100, nor more than \$1,000, or by imprisonment for not more than three months, or by both such fine and imprisonment, in the discretion of the court.

In any State designated by such board an employment certificate or other similar paper as to the age of the child, issued under the laws of that State, and not inconsistent with the provisions of this title, shall have the same force and effect as a certificate herein provided for.

(b) The tax imposed by this title shall not be imposed in the case of any person who proves to the satisfaction of the Secretary that the only employment or permission to work which but for this section would subject him to the tax, has been of a child employed or permitted to work under a mistake of fact as to the age of such child, and without intention to evade the tax. (Act Feb. 24, 1919, c. 18, § 1203.)

§ 5633e. Annual return.—On or before the first day of the third month following the close of each taxable year, a true and accurate return under oath shall be made by each person subject to the provisions of this title to the collector for the district in which such person has his principal office or place of business, in such form as the Commissioner, with the approval of the Secretary, shall prescribe, setting forth specifically the gross amount of income received or accrued during such year from the sale or disposition of the product of any mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment, in which children have been employed subjecting him to the tax imposed by this title, and from the total thereof deducting the aggregate items of allowance by this title, and such other particulars as to the gross receipts and items of allowance as the Commissioner, with the approval of the Secretary may require. (Act Feb. 24, 1919, c. 18, § 1204.)

§ 5633f. Assessment and payment of tax.—All such returns shall be transmitted forthwith by the collector to the Commissioner, who shall as soon as practicable, assess the tax found due and notify the person making such return of the amount of tax for which such person is liable, and such person shall pay the tax to the collector on or before thirty days from the date of such notice. (Act Feb. 24, 1919, c. 18, § 1205.)

§ 5633g. Official inspection.—For the purposes of this Act the Commissioner, or any other person duly authorized by him, shall have authority to enter and inspect at any time any mine, quarry, cannery, workshop, factory, or manufacturing establishment. The Secretary of Labor, or any person duly authorized by him, shall, for the purpose of complying with a request of the Commissioner to make such an inspection, have like authority, and shall make report to the Commissioner of inspections made under such authority in such form as may be prescribed by the Commissioner with the approval of the Secretary of the Treasury.

Any person who refuses or obstructs entry or inspection authorized by this section shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or both such fine and imprisonment. (Act Feb. 24, 1919, c. 18, § 1206.)

§ 5633h. Taxable year.—As used in this title the term "taxable year" shall have the same meaning as provided for the purpose of income tax in section 200. The first taxable year for the purposes of this title shall be the period between sixty days after the passage of this Act and December 31, 1919, both inclusive, or such portion of such period as is included within the fiscal year (as defined in section 200) of the taxpayer. (Act Feb. 24, 1919, c. 18, § 1207.)

Note.—§ 200 is now § 5515.

TITLE XIII.—GENERAL ADMINISTRATIVE PROVISIONS.

§ 5633i. Salary of Commissioner.—Hereafter the salary of the Commissioner shall be \$10,000 a year. The difference between the amount appropriated under existing law and the salary herein established shall, for the period between the passage of this Act and July 1, 1919, be paid out of the appropriations for collecting internal revenue. (Act Feb. 24, 1919, c. 18, § 1300.)

§ 5633j. Deputy commissioners; salaries of collectors; administration expenses; advisory tax board.—(a) Hereafter there may be employed in the Bureau of Internal Revenue, in lieu of the deputy commissioners whose salaries are now fixed by law, five deputy commissioners and an assistant to the Commissioner, who shall receive a salary of \$5,000 a year, payable monthly. The assistant to the Commissioner may be authorized by the Commissioner to perform any duties which the deputy commissioners may perform under existing law.

(b) The salaries of collectors may be readjusted and increased under such regulations as may be prescribed by the Commissioner, subject to the approval of the Secretary, but no collector shall receive a salary in excess of \$6,000 a year.

(c) There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1919, the sum of \$7,500,000 for the expenses of assessing and collecting the internal-

revenue taxes as provided in this Act, including the employment of necessary officers, attorneys, experts, agents, inspectors, deputy collectors, clerks, janitors, and messengers, in the District of Columbia, and the several collection districts, to be appointed as provided by law, telegraph and telephone service, rental and repair of quarters, postage, and the purchase of such supplies, equipment, furniture, mechanical devices, printing, stationery, law books and books of reference, not to exceed \$500 for street car fares in the District of Columbia, and such other articles as may be necessary for use in the District of Columbia and the several collection districts: Provided, That not more than \$2,750,000 of the total amount appropriated by this section may be expended in the Bureau of Internal Revenue, in the District of Columbia.

(d) (1) There is hereby created a board to be known as the "Advisory Tax Board," hereinafter called the Board, and to be composed of not to exceed six members to be appointed by the Commissioner with the approval of the Secretary. The Board shall cease to exist at the expiration of two years after the passage of this Act, or at such earlier time as the Commissioner with the approval of the Secretary may designate. Vacancies in the membership of the Board shall be filled in the same manner as an original appointment. Any member shall be subject to removal by the Commissioner with the approval of the Secretary. The Commissioner with the approval of the Secretary shall designate the chairman of the Board. Each member shall receive an annual salary of \$9,000, payable monthly, together with actual necessary expenses when absent from the District of Columbia on official business.

(2) The Commissioner may, and on the request of any taxpayer directly interested shall, submit to the Board any question relating to the interpretation or administration of the income, war-profits or excess-profits tax laws, and the Board shall report its findings and recommendations to the Commissioner.

(3) The Board shall have its office in the Bureau of Internal Revenue in the District of Columbia. The expenses and salaries of members of the Board shall be audited, allowed, and paid out of appropriations for collecting internal revenue, in the same manner as expenses and salaries of employees of the Bureau of Internal Revenue are audited, allowed, and paid.

(4) The Board shall have the power to summon witnesses, take testimony, administer oaths, and to require any person to produce books, papers, documents, or other data relating to any matter under investigation by the Board. Any member of the Board may sign subpoenas and members and employees of the Bureau of Internal Revenue designated to assist the Board, when authorized by the Board, may administer oaths, examine witnesses, take testimony and receive evidence. (Act Feb. 24, 1919, c. 18, § 1301.)

§ 5633k. Leaves of absence for agents and inspectors.—All internal-revenue agents and inspectors shall be granted leave of absence with pay, which shall not be cumulative, not to exceed thirty days in any calendar year, under such regulations as the Commissioner, with the approval of the Secretary, may prescribe. (Act Feb. 24, 1919, c. 18, § 1302.)

§ 5633l. Trade with Virgin Islands.—There shall be levied, collected, and paid in the United States, upon articles coming into the United States from the Virgin Islands, a tax equal to the internal-revenue tax imposed in the United States upon like articles of domestic manufacture; such articles shipped from such islands to the United States shall be exempt from the payment of any tax imposed by the internal-revenue laws of such islands: Provided, That there shall be levied, collected, and paid in such islands, upon articles imported from the United States, a tax equal to the internal-revenue tax imposed in such islands upon like articles there manufactured; and such articles going into such islands from the United States shall be exempt from payment of any tax imposed by the internal-revenue laws of the United States. (Act Feb. 24, 1919, c. 18, § 1304.)

§ 5633m. Laws and regulations applicable; supervision of returns.—All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this Act, and every person liable to any tax imposed by this Act, or for the collection thereof, shall keep such records and

render, under oath, such statements and returns, and shall comply with such regulations as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return or such statements as he deems sufficient to show whether or not such person is liable to tax.

The commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is hereby authorized, by any revenue agent or inspector designated by him for that purpose, to examine any books, papers, records or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons. (Act Feb. 24, 1919, c. 18, § 1305.)

§ 5633n. Return and payment of floor taxes.—Where floor taxes are imposed by this Act in respect to articles or commodities, in respect to which the tax imposed by existing law has been paid, the person required by this Act to pay the tax shall, within thirty days after its passage, make return under oath in such form and under such regulations as the Commissioner, with the approval of the Secretary, shall prescribe. Payment of the tax shown to be due may be extended to a date not exceeding seven months from the passage of this Act, upon the filing of a bond for payment in such form and amount and with such sureties as the Commissioner, with the approval of the Secretary, may prescribe. (Act Feb. 24, 1919, c. 18, § 1306.)

§ 5633o. Methods of collection.—In all cases where the method of collecting the tax imposed by this Act is not specifically provided in this Act, the tax shall be collected in such manner as the Commissioner, with the approval of the Secretary, may prescribe. All administrative and penalty provisions of Title XI of this Act, in so far as applicable, shall apply to the collection of any tax which the Commissioner determines on or prescribes shall be paid by stamp. (Act Feb. 24, 1919, c. 18, § 1307.)

§ 5633p. Failure to make return or give information, or to pay, collect, account for or pay over taxes.—(a) Any person required under Titles V, VI, VII, VIII, IX, X, or XII, to pay, or to collect, account for and pay over any tax, or required by law or regulations made under authority thereof to make a return or supply any information for the purposes of the computation, assessment or collection of any such tax, who fails to pay, collect, or truly account for and pay over any such tax, make any such return or supply any such information at the time or times required by law or regulation shall in addition to other penalties provided by law be subject to a penalty of not more than \$1,000.

(b) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax, make such return or supply such information at the time or times required by law or regulation, or who willfully attempts in any manner to evade such tax shall be guilty of a misdemeanor and in addition to other penalties provided by law shall be fined not more than \$10,000 or imprisoned for not more than one year, or both, together with the costs of prosecution.

(c) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax shall in addition to other penalties provided by law be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected: Provided, however, That no penalty shall be assessed under this subdivision for any offense for which a penalty may be assessed under authority of section 3176 of the Revised Statutes, as amended, or of section 605 or 620 of this Act, or for any offense for which a penalty has been recovered under section 3256 of the Revised Statutes.

(d) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who

as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs. (Act Feb. 24, 1919, § 1308.)

Note.—§ 605 is now § 5605; § 620 is now § 5619.

§ 5633q. Power to prescribe regulations; witnesses to return.—The Commissioner, with the approval of the Secretary, is hereby authorized to make all needful rules and regulations for the enforcement of the provisions of this Act.

The Commissioner with such approval may by regulation provide that any return required by Titles V, VI, VII, VIII, IX, or X to be under oath may, if the amount of the tax covered thereby is not in excess of \$10, be signed or acknowledged before two witnesses instead of under oath. (Act Feb. 24, 1919, § 1309.)

§ 5633r. Overpayment of tax; credit sales; articles sold or leased for export.—(a) In the case of any overpayment or overcollection of any tax imposed by section 628 or 630 or by Title V, Title VIII, or Title IX, the person making such overpayment or overcollection may take credit therefor against taxes due upon any monthly return, and shall make refund of any excessive amount collected by him upon proper application by the person entitled thereto.

(b) Wherever in this Act a tax is required to be paid by the purchaser to the vendor at the time of a sale, and such sale is made on credit, then, under regulations prescribed by the Commissioner, with the approval of the Secretary, the tax may, at the option of the vendor, be returned and paid by him to the United States as if paid to him by the purchaser at the time of the sale, and in such case the vendor shall have a right of action in any court of competent jurisdiction against the purchaser for the amount of the tax so returned and paid to the United States.

(c) Under such rules and regulations as the Commissioner with the approval of the Secretary may prescribe, the taxes imposed under the provisions of Titles VI, VII or IX shall not apply in respect to articles sold or leased for export and in due course so exported. Under such rules and regulations the amount of any internal-revenue tax erroneously or illegally collected in respect to exported articles may be refunded to the exporter of the article, instead of to the manufacturer, if the manufacturer waives any claim for the amount so to be refunded. (Act Feb. 24, 1919, c. 18, § 1310.)

Note.—§ 628 is now § 5624; § 630 is now § 5626.

§ 5633s. Stamps on hand.—Where the rate of tax imposed by this Act, payable by stamps, is an increase over previously existing rates, stamps on hand in the collectors' offices and in the Bureau of Internal Revenue may continue to be used until the supply on hand is exhausted, but shall be sold and accounted for at the rates provided by this Act, and assessment shall be made against manufacturers and other taxpayers having such stamps on hand on the day this Act takes effect for the difference between the amount paid for such stamps and the tax due at the rates provided by this Act. (Act Feb. 24, 1919, c. 18, § 1311.)

§ 5633t. Sale or lease of articles taxed or not taxed under prior law.—(1) If (a) any person has prior to May 9, 1917, made a bona fide contract with a dealer for the sale or lease, after the tax takes effect, of any article in respect to which a tax is imposed under Title VI, VII, or IX, or under subdivision 13 of Schedule A of Title XI, or under this subdivision, and (b) if such contract does not permit the adding of the whole of such tax to the amount to be paid under such contract, then the vendee or lessee shall, in lieu of the vendor or lessor, pay so much of such tax as is not so permitted to be added to the contract price. If a contract of the character above described was made with any person other than a dealer, the tax collected under this Act shall be the tax in force on May 9, 1917.

(2) If (a) any person has prior to September 3, 1918, made a bona fide contract with a dealer for the sale or lease, after the tax takes effect, of any article in respect to which a tax is imposed under Title VI, VII, or IX, or under subdivision 13 of Schedule A of Title XI, or under this subdivision, and in respect to which no corresponding tax was imposed by the Revenue Act of 1917, and (b) such contract does not permit the adding, to the

amount to be paid under such contract, of the whole of the tax imposed by this Act, then the vendee or lessee shall, in lieu of the vendor or lessor, pay so much of the tax imposed by this Act as is not so permitted to be added to the contract price. If a contract of the character above described was made with any person other than a dealer, no tax shall be collected under this Act.

(3) If (a) any person has prior to September 3, 1918, made a bona fide contract with a dealer for the sale or lease, after the tax takes effect, of any article in respect to which a tax is imposed under Title VI, VII, or IX, or under subdivision 13 of Schedule A of Title XI, or under this subdivision, and in respect to which a corresponding tax was imposed by the Revenue Act of 1917, and (b) such contract does not permit the adding, to the amount to be paid under such contract, of the whole of the difference between such tax and the corresponding tax imposed by the Revenue Act of 1917, then the vendee or lessee shall, in lieu of the vendor or lessor, pay so much of such difference as is not so permitted to be added to the contract price. If a contract of the character above described was made with any person other than a dealer, the tax collected under this Act shall be the tax in force on September 3, 1918.

(4) The taxes payable by the vendee or lessee under this section shall be paid to the vendor or lessor at the time the sale or lease is consummated, and collected, returned, and paid to the United States by such vendor or lessor in the same manner as provided in section 502.

(5) The term "dealer" as used in this section includes a vendee who purchases any article with intent to use it in the manufacture or production of another article intended for sale.

(6) This section shall not apply to any tax imposed by section 906. (Act Feb. 24, 1919, c. 18, § 1312.)

Note.—§ 502 is now § 5597; § 906 is now § 5632h.

§ 5633u. Fractional part of cent.—In the payment of any tax under this Act not payable by stamp a fractional part of a cent shall be disregarded unless it amount to one-half cent or more, in which case it shall be increased to 1 cent. (Act Feb. 24, 1919, c. 18, § 1313.)

§ 5633v. Payment of tax by checks or certificates of indebtedness.—Collectors may receive, at par, with an adjustment for accrued interest, certificates of indebtedness issued by the United States and uncertified checks in payment of income, war-profits and excess-profits taxes and any other taxes payable other than by stamp, during such time and under such regulations as the Commissioner, with the approval of the Secretary, shall prescribe; but if a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions the same as if such check had not been tendered. (Act Feb. 24, 1919, c. 18, § 1314.)

§ 5633w. Remedies to enforce act; production of records and accounts.—If any person is summoned under this Act to appear to testify, or to produce books, papers or other data, the district court of the United States for the district in which such person resides shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, or other data.

The district courts of the United States at the instance of the United States are hereby invested with such jurisdiction to make and issue, both in actions at law and suits in equity, writs and orders of injunction, and of ne exeat republica, orders appointing receivers, and such other orders and process, and to render such judgments and decrees, granting in proper cases both legal and equitable relief together, as may be necessary or appropriate for the enforcement of the provisions of this Act. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such provisions. (Act Feb. 24, 1919, c. 18, § 1318.)

§ 5633x. False statement to purchaser or lessee concerning tax.—Whoever in connection with the sale or lease, or offer for sale or lease, of any article, or for the purpose of making such sale or lease, makes any statement, written or oral, (1) intended or calculated to lead any person to

believe that any part of the price at which such article is sold or leased, or offered for sale or lease, consists of a tax imposed under the authority of the United States, or (2) ascribing a particular part of such price to a tax imposed under the authority of the United States, knowing that such statement is false or that the tax is not so great as the portion of such price ascribed to such tax, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding one year, or both. (Act Feb. 24, 1919, c. 18, § 1319.)

§ 5634. Liberty bonds accepted in lieu of penal bonds required by law.—Wherever by the laws of the United States or regulations made pursuant thereto, any person is required to furnish any recognizance, stipulation, bond, guaranty, or undertaking, hereinafter called "penal bond," with surety or sureties, such person may, in lieu of such surety or sureties, deposit as security with the official having authority to approve such penal bond, United States Liberty bonds or other bonds of the United States in a sum equal at their par value to the amount of such penal bond required to be furnished, together with an agreement authorizing such official to collect or sell such bonds so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond. The acceptance of such United States bonds in lieu of surety or sureties required by law shall have the same force and effect as individual or corporate sureties, or certified checks, bank drafts, post-office money orders, or cash, for the penalty or amount of such penal bond. The bonds deposited hereunder, and such other United States bonds as may be substituted therefor from time to time as such security, may be deposited with the Treasurer, or an Assistant Treasurer of the United States, a Government depository, Federal Reserve bank, or member bank, which shall issue receipt therefor, describing such bonds so deposited. As soon as security for the performance of such penal bond is no longer necessary, such bonds so deposited, shall be returned to the depositor: Provided, That in case a person or persons supplying a contractor with labor or material as provided by the Act of Congress, approved February 24, 1905 (33 Stat. 811), entitled "An Act to amend an Act approved August thirteenth, eighteen hundred and ninety-four, entitled 'An Act for the protection of persons furnishing materials and labor for the construction of public works,'" shall file with the obligee, at any time after a default in the performance of any contract subject to said Acts, the application and affidavit therein provided, the obligee shall not deliver to the obligor the deposited bonds nor any surplus proceeds thereof until the expiration of the time limited by said Acts for the institution of suit by such person or persons, and, in case suit shall be instituted within such time, shall hold said bonds or proceeds subject to the order of the court having jurisdiction thereof: Provided further, That nothing herein contained shall affect or impair the priority of the claim of the United States against the bonds deposited or any right or remedy granted by said Acts or by this section to the United States or default upon any obligation of said penal bond: Provided further, That all laws inconsistent with this section are hereby so modified as to conform to the provisions hereof: And provided further, That nothing contained herein shall affect the authority of courts over the security, where such bonds are taken as security in judicial proceedings, or the authority of any administrative officer of the United States to receive United States bonds for security in cases authorized by existing laws. The Secretary may prescribe rules and regulations necessary and proper for carrying this section into effect. (Act Feb. 24, 1919, c. 18, § 1320.)

TITLE XIV.—GENERAL PROVISIONS.

§ 5634a. Repeal of laws.—The following parts of Acts are hereby repealed, subject to the limitations provided in subdivision (b):

(1) The following titles of the Revenue Act of 1916: Title I (called "Income Tax"); Title II (called "Estate Tax"); Title III (called "Munitions Manufacturers' Tax"), as amended; Title IV (called "Miscellaneous Taxes").

(2) The following parts of the Act entitled "An Act to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy and the extensions of fortifications, and for other purposes,"

approved March 3, 1917: Title III (called "Estate Tax"); Section 402 (called "Returns of Dividends.").

(3) The following titles of the Revenue Act of 1917: Title I (called "War Income Tax"); Title II (called "War Excess-Profits Tax"); Title II (called "War Tax on Beverages"); Title IV (called "War Tax on Cigars, Tobacco, and Manufactures Thereof"); Title V (called "War Tax on Facilities Furnished by Public Utilities, and Insurance"); Title VI (called "War Excise Taxes"); Title VII (called "War Tax on Admissions and Dues"); Title VIII (called "War-Stamp Taxes"); Title IX (called "War Estate Tax"); Title X (called "Administrative Provisions"); Title XII (called "Income-Tax Amendments").

(b) Such parts of Acts shall remain in force for the assessment and collection of all taxes which have accrued thereunder, and for the imposition and collection of all penalties or forfeitures which have accrued and may accrue in relation to any such taxes, and except that the unexpended balance of any appropriation heretofore made and now available for the administration of any such part of an Act shall be available for the administration of this Act or the corresponding provision thereof: Provided, That, except as otherwise provided in this Act, no taxes shall be collected under Title I of the Revenue Act of 1916 as amended by the Revenue Act of 1917, or Title I or II of the Revenue Act of 1917, in respect to any period after December 31, 1917: Provided further, That the assessment and collection of all estate taxes, and the imposition and collection of all penalties or forfeitures, which have accrued under Title II of the Revenue Act of 1916 as amended by the Act entitled "An Act to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy and the extensions of fortifications, and for other purposes," approved March 3, 1917, or Title IX of the Revenue Act of 1917, shall be according to the provisions of Title IV of this Act. In the case of any tax imposed by any part of an Act herein repealed, if there is a tax imposed by this Act in lieu thereof, the provision imposing such tax shall remain in force until the corresponding tax under this Act takes effect under the provisions of this Act.

Title I of the Revenue Act of 1916 as amended by the Revenue Act of 1917 shall remain in force for the assessment and collection of the income tax in Porto Rico and the Philippine Islands, except as may be otherwise provided by their respective legislatures.

Section 1100 of the Revenue Act of 1917 is hereby repealed, to take effect on July 1, 1919, and thereafter the rate of postage on all mail matter of the first class shall be the same as the rate in force on October 2, 1917: Provided, That letters written and mailed by soldiers, sailors, and marines assigned to duty in a foreign country engaged in the present war may be mailed free of postage, subject to such rules and regulations as may be prescribed by the Postmaster General. Section 1107 of such Act is hereby repealed, to take effect July 11, 1919. (Act Feb. 24, 1919, c. 18, §§ 1400, 1401.)

Note.—The laws so repealed and superseded are found in Barnes' Federal Code at §§ 5054, 5063, 5071, 5072, 5075, 5124, 5159-5167, 5177, 5188, 5243, 5275-5283, 5296, 5314, 5331, 5502-5635, 5648.

§ 5634b. Partial invalidity of Act.—If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment has been rendered. (Act Feb. 24, 1919, c. 18, § 1402.)

§ 5634c. Title of revenue Acts.—The Revenue Act of 1916 is hereby amended by adding at the end thereof a section to read as follows: "Sec. 903. That this Act may be cited as the 'Revenue Act of 1916.'"

The Revenue Act of 1917 is hereby amended by adding at the end thereof a section to read as follows: "This Act may be cited as the 'Revenue Act of 1917.'"

This Act may be cited as the "Revenue Act of 1918." (Act Feb. 24, 1919, c. 18, §§ 1403-1405.)

§ 5634d. Government contracts.—Every person who on or after April 6, 1917, has entered into any contract, undertaking, or agreement, with the

United States, or with any department, bureau, officer, commission, board, or agency under the United States or acting in its behalf, or with any other person having contract relations with the United States, for the performance of any work or the supplying of any materials or property for the use of or for the account of the United States, shall, within thirty days after a request of the Commissioner therefor, file with the Commissioner a true and correct copy of every such contract, undertaking, or agreement. Whoever fails to comply with such request of the Commissioner shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or both.

The Commissioner shall (when not violative of the technical military or naval secrets of the Government) have access to all information and data relating to any such contract, undertaking, or agreement, in the possession, control or custody of any department, bureau, board, agency, officer or commission of the United States, and may call upon any such department, bureau, board, agency, officer or commission for a full statement and description of any allowance for amortization, obsolescence, depreciation or loss, or of any valuation, appraisal, adjustment or final settlement, made in pursuance of any such contract, undertaking, or agreement. (Act Feb. 24, 1919, c. 18, § 1408.)

§ 5635. When Act effective.—Unless otherwise herein specially provided, this Act shall take effect on the day following its passage. (Act Feb. 24, 1919, c. 18, § 1409.)

CHAPTER 18.

PROVISIONS COMMON TO SEVERAL OBJECTS OF TAXATION.

§ 5648. Repealed by § 5634a.

§ 5665. Detection and punishment of fraud.

Note.—By appropriation Act March 1, 1919, c. 86, § 1, it is provided that "not more than \$500,000 of the total amount appropriated herein may be expended by the Commissioner of Internal Revenue for detecting and bringing to trial persons guilty of violating the internal-revenue laws or conniving at the same, including payments for information and detection of such violation."

TITLE XXXVIII.

COINAGE.

§ 5762. Coinage of silver.

Note 1.—Act May 10, 1920, c. 176, §§ 1, 2, provides that "as soon as practicable, and in commemoration of the one hundredth anniversary of the admission of the State of Maine into the Union as a State, there shall be coined at the mints of the United States silver 50-cent pieces to the number of one hundred thousand, such 50-cent pieces to be of the standard troy weight, composition, diameter, device, and design as shall be fixed by the Director of the Mint, with the approval of the Secretary of the Treasury, and said 50-cent pieces shall be legal tender in any payment to the amount of their face value. All laws now in force relating to the subsidiary silver coins of the United States and the coining or striking of the same, regulating and guarding the process of coinage, providing for the purchase of material, and for the transportation, distribution, and redemption of the coins, for the prevention of debasement or counterfeiting, for security of the coin, or for any other purpose, whether said laws are penal or otherwise, shall, so far as applicable, apply to the coinage herein authorized: Provided, That the Government shall not be subject to the expense of making the necessary dies and other preparations for this coinage."

Note 2.—Act May 10, 1920, c. 177, §§ 1, 2, provides that "as soon as practicable, and in commemoration of the one hundredth anniversary of the admission of the State of Alabama into the Union as a State, there shall be coined at the mints of the United States silver 50-cent pieces to the number of one hundred thousand, such 50-cent pieces to be of the standard troy weight, composition, diameter, device, and design as shall be fixed by the Director of the Mint, with the approval of the Secretary of the Treasury, and said 50-cent pieces shall be legal tender in any payment to the amount of their face value. All laws now in force relating to the subsidiary silver coins of the United States and the coining or striking of the same, regulating

and guarding the process of coinage, providing for the purchase of material, and for the transportation, distribution, and redemption of the coins, for the prevention of debasement or counterfeiting, for security of the coin, or for any other purpose, whether said laws are penal or otherwise, shall, so far as applicable, apply to the coinage herein authorized: Provided, That the Government shall not be subject to the expense of making the necessary dies and other preparations for this coinage."

Note 3.—Act May 12, 1920, c. 182, §§ 1, 2, provides that "in commemoration of the three hundredth anniversary of the landing of the Pilgrims there shall be coined at the mints of the United States silver 50-cent pieces to the number of three hundred thousand, such 50-cent pieces to be of the standard troy weight, composition, diameter, device, and design as shall be fixed by the Director of the Mint, with the approval of the Secretary of the Treasury, which said 50-cent pieces shall be legal tender in any payment to the amount of their face value. All laws now in force relating to the subsidiary silver coins of the United States and the coining or striking of the same, regulating and guarding the process of coinage, providing for the purchase of material and for the transportation, distribution, and redemption of the coins, for the prevention of debasement or counterfeiting, for security of the coin, or for any other purposes, whether said laws are penal or otherwise, shall, so far as applicable, apply to the coinage herein authorized: Provided, That the United States shall not be subject to the expense of making the necessary dies and other preparations for this coinage."

§ 5774. Purchase of metal for minor coinage; the minor coinage profit fund.—For the purchase of metal for the minor coinage, authorized by this Act, a sum not exceeding \$400,000 in lawful money of the United States shall, upon the recommendation of the Director of the Mint and in such sums as he may designate, with the approval of the Secretary of the Treasury, be transferred to the credit of the superintendents of the mints at Philadelphia, San Francisco, and Denver, at which establishments, until otherwise provided by law, such coinage shall be carried on. The superintendents, with the approval of the Director of the Mint as to price, terms, and quantity shall purchase the metal required for such coinage by public advertisement, and the lowest and best bid shall be accepted, the fineness of the metals to be determined on the mint assay. The gain arising from the coinage of such metals into coin of a nominal value, exceeding the cost thereof, shall be credited to the special fund denominated the minor coinage profit fund; and this fund shall be charged with the wastage incurred in such coinage, and with the cost of distributing said coins, as hereinafter provided. The balance remaining to the credit of this fund, and any balance of the profits accrued from minor coinage under former Acts, shall be, from time to time, and at least twice a year, covered into the Treasury of the United States. (R. S. § 3528; Acts Feb. 12, 1873, c. 131, § 29, 17 Stat. 429; April 24, 1906, c. 1861, 34 Stat. 132; Dec. 2, 1918, c. 1.)

Note.—This statute, as amended by the Act last cited, appears also in Barnes' Federal Code as § 10374, because available in official form too late for incorporation therein at its proper place as indicated above.

TITLE XL.

LEGAL TENDER.

§ 5852a. Gold certificates.—Gold certificates of the United States payable to bearer on demand shall be and are hereby made legal tender in payment of all debts and dues, public and private. (Act Dec. 24, 1919, c. 15, §§ 1, 2.)

TITLE XLI.

THE PUBLIC MONEYS.

§ 5858. Offices of assistant treasurers abolished.—Section 3595 of the Revised Statutes of the United States, as amended, providing for the appointment of an Assistant Treasurer of the United States at Boston, New York, Philadelphia, Baltimore, New Orleans, Saint Louis, San Francisco, Cincinnati, and Chicago, and all laws or parts of laws so far as they authorize the establishment or maintenance of offices of such Assistant Treasurers or of Subtreasuries of the United States are hereby repealed from and after July 1, 1921; and the Secretary of the Treasury is authorized and directed to discontinue from and after such date or at such earlier date or dates as he may deem advisable, such subtreasuries and the exercise of all duties and functions by such assistant treasurers or their offices. The office of each assistant treasurer specified above and the services of any officers or other employees assigned to duty at his office shall terminate upon the discontinuance of the functions of that office by the Secretary of the Treasury.

The Secretary of the Treasury is hereby authorized, in his discretion, to transfer any or all of the duties and functions performed or authorized to be performed by the assistant treasurers above enumerated, or their offices, to the Treasurer of the United States or the mints or assay offices of the United States, under such rules and regulations as he may prescribe, or to utilize any of the Federal reserve banks acting as depositaries or fiscal agents of the United States, for the purpose of performing any or all of such duties and functions, notwithstanding the limitations of section 15 of the Federal Reserve Act, as amended, or any other provisions of law: Provided, That if any moneys or bullion, constituting part of the trust funds or other special funds heretofore required by law to be kept in Treasury offices, shall be deposited with any Federal reserve bank, then such moneys or bullion shall by such bank be kept separate and distinct from the assets, funds, and securities of the Federal reserve bank and be held in the joint custody of the Federal reserve agent and the Federal reserve bank: Provided further, That nothing in this section shall be construed to deny the right of the Secretary of the Treasury to use member banks as depositaries as heretofore authorized by law.

The Secretary of the Treasury is hereby authorized to assign any or all the rooms, vaults, equipment, and safes or space in the buildings used by the subtreasuries to any Federal reserve bank acting as fiscal agent of the United States.

All employees in the subtreasuries in the classified civil service of the United States, who may so desire, shall be eligible for transfer to classified civil service positions under the control of the Treasury Department, or if their services are not required in such department they may be transferred to fill vacancies in any other executive department with the consent of such department. To the extent that such employees possess required qualifications, they shall be given preference over new appointments in the classified civil service under the control of the Treasury Department in the cities in which they are now employed. (R. S. § 3595; Acts Aug. 6, 1846, c. 90, § 5, 9 Stat. 60; April 7, 1866, c. 28, § 14, 14 Stat. 26; June 15, 1870, c. 129, § 1, 16 Stat. 152; Feb. 12, 1873, c. 131, § 65, 17 Stat. 435; March 3, 1873, c. 228, § 5, 17 Stat. 543; May 29, 1920, c. 214, § 1.)

§§ 5859-5876. See § 5858, abolishing the offices of assistant treasurers.

TITLE XLII.

APPROPRIATIONS.

§ 5960a. Buildings in District of Columbia.—Hereafter the statement of buildings rented within the District of Columbia for the use of the Government, required by the Act of July 16, 1892, shall indicate, in addition to the data required by section 3 of the Act of May 1, 1913, the cost of care, maintenance, and operation of each building per square foot of floor space of the building or portion of building rented. (Act May 29, 1920, c. 214, § 7.)

§ 5974a. Estimates for expenses of war bond issues.—For the fiscal year 1922 and annually thereafter estimates of appropriations shall be submitted to Congress in the manner prescribed by law for expenses arising in connection with the loans authorized by the various Liberty Bond Acts and the Victory Liberty Loan Act. (Act May 29, 1919, c. 214, § 1.)

§ 5979a. Estimates for fortifications, armament and heavy ordnance.—Estimates of appropriations for fortifications and other works of defense, for the armament thereof, and for the procurement of heavy ordnance for trial and service shall be submitted to Congress in the Book of Estimates for the fiscal year 1921 and each fiscal year thereafter upon an annual basis. And section 5 of the legislative, executive, and judicial appropriation Act approved June 20, 1874, and section 7 of the sundry civil appropriation Act approved August 24, 1912, so far as they except appropriations for "fortifications" from the operations thereof, are repealed. (Act March 3, 1919, c. 99, § 6.)

Note.—The statutes affected by such repeal are found in Barnes' Federal Code at §§ 6085, 6087.

§ 5982a. Temporary employees in Navy Department.—For the employment of such additional temporary force of clerks, messengers, laborers, and other assistants as in the judgment of the Secretary of the Navy may be necessary to the transaction of official business in the Navy Department and its bureaus and offices, * * * in all, \$1,059,500: Provided, That the Secretary of the Navy shall submit to Congress on the first day of its next regular session a statement showing by bureaus or offices the number and designation of the persons employed hereunder and the annual rate of compensation paid to each: Provided further, That not more than thirty-five persons shall be employed hereunder at rates of compensation in excess of \$2,000 per annum, of whom not more than ten shall be employed at a rate of compensation in excess of \$2,400 per annum and not more than \$4,000 per annum: Provided further, That detailed estimates shall be submitted by the Navy Department in the annual Book of Estimates for the fiscal year 1921 for necessary services of the character provided for in this paragraph. (Act March 1, 1919, c. 86, § 1.)

§ 6024. Signal Service disbursements.

Note.—By Appropriation Act March 1, 1919, c. 86, § 1, it is provided that "the services of skilled draftsmen and such other services as the Secretary of War may deem necessary may be employed only in the Signal Office to carry into effect the various appropriations for fortifications and other works of defense, and for the Signal Service of the Army, to be paid from such appropriations, in addition to the foregoing employees appropriated for in the Signal Office: * * * Provided, That the entire expenditures for this purpose for the fiscal year 1920 shall not exceed \$53,280, and the Secretary of War shall each year in the annual estimates report to Congress the number of persons so employed, their duties, and the amount paid to each."

§ 6026. Appropriation for Military Academy.

Note.—Act March 4, 1919, c. 124, making appropriations for the academy, provides that "all the moneys hereinbefore appropriated for pay of the Military Academy shall be disbursed and accounted for by officers of the Quartermaster Corps as pay of the Military Academy and for that purpose shall constitute one fund."

§ 6040a. Purchases must be made as far as possible from other services of the Government.—The heads of the several executive departments and other responsible officials, in expending appropriations contained in this Act, so far as possible shall purchase material, supplies, and equipment, when needed and funds are available, from other services of the Government possessing material, supplies, and equipment no longer required because of the cessation of war activities. It shall be the duty of the heads of the several executive departments and other officials, before purchasing any of the articles described herein, to ascertain from the other services of the Government whether they have articles of the character described that are serviceable. And articles purchased by one service from another, if the same have not been used, shall be paid for at a reasonable price not to exceed actual cost, and if the same have been used, at a reasonable price based upon length of usage. The various services of the Government are authorized to sell such articles under the conditions specified, and the proceeds of such sales shall be covered into the Treasury as a miscellaneous receipt: Provided, That this section shall not be construed to amend, alter, or repeal the Executive order of December 3, 1918, concerning the transfer of office material, supplies, and equipment in the District of Columbia falling into disuse because of the cessation of war activities. (Act March 1, 1919, c. 86, § 8.)

§ 6046. Availability of ordnance appropriations; special services and issue of materials thereunder.—Hereafter the appropriations "Ordnance-stores ammunition," "Small-arms target practice," and "Ordnance stores and supplies" shall be available for two years to procure the stores authorized by them.

Ordnance materials procured under the various ordnance appropriations shall hereafter be available for issue, to meet the general needs of the naval service, under the appropriation from which procured.

The services of skilled draftsmen and such other services as the Secretary of War may deem necessary may be employed only in the office of the Chief of Ordnance to carry into effect the various appropriations for the armament of fortifications and for the arming and equipping of the National Guard, to be paid from such appropriations, in addition to the amount specifically appropriated for draftsmen in the Army Ordnance Bureau: Provided, That the entire expenditures for this purpose for the fiscal year 1920 shall not exceed \$40,000, and the Secretary of War shall each year in the annual estimates report to Congress the number of persons so employed, their duties, and the amount paid to each. (Act March 2, 1907, c. 2511, 34 Stat. 1175; July 1, 1918, c. 114, 40 Stat.; July 3, 1918, c. 130, § 1, 40 Stat.; March 1, 1919, c. 86, § 1.)

§ 6071. Advances under boundary line appropriations.—Hereafter advances of money under the appropriation "Boundary line, Alaska and Canada, and the United States and Canada," may be made to the commissioner on the part of the United States and by his authority to chiefs of parties, who shall give bond under such rules and regulations and in such sum as the Secretary of State may direct, and accounts arising under advances shall be rendered through and by the commissioner on the part of the United States to the Treasury Department as under advances heretofore made to chiefs of parties: Provided, That when the commissioner is absent from Washington and from his regular place of residence on official business he shall be allowed actual and necessary expenses of subsistence, not in excess of \$8 per day. (Acts July 1, 1916, c. 208, 39 Stat. 256; March 3, 1917, c. 161, 39 Stat. 1051; April 15, 1918, c. 52, 40 Stat. 519; March 4, 1919, c. 123; June 4, 1920, c. 223.)

§ 6081. Repealed by § 6143b herein.

§ 6082. Permanent indefinite appropriations.

Note.—Act Feb. 24, 1919, c. 18, § 1316, provides "the paragraph of this section reading as follows: 'Refunding taxes illegally collected (internal-revenue): To refund and pay back duties erroneously or illegally assessed or collected under the internal-revenue laws,' is repealed from and after June 30, 1920;" and the Secretary of the Treasury shall submit for the fiscal year 1921, and annually thereafter, an estimate of appropriations to refund and pay back duties or taxes erroneously or illegally assessed or collected under the internal-revenue laws, and to pay judgments, including interest and costs, rendered for taxes or penalties erroneously or illegally assessed or collected under the internal-revenue laws." See also last paragraph of § 6143b, herein.

§ 6085. Carriage of unexpended balances to surplus fund.

Note.—See § 5979a herein, operating as a partial repeal of this section.

§ 6087. When appropriations in annual Acts permanent.

Note.—See § 5979a herein, operating as a partial repeal of this section.

TITLE XLIII.**THE PUBLIC DEBT AND WAR FINANCE.****CHAPTER 1.****THE PUBLIC DEBT GENERALLY.**

§§ 6094-6096. Repealed by § 6143b, herein.

CHAPTER 2.**LIBERTY BOND ISSUES.**

§ 6130a. Additional credits and advances to foreign governments; conversion of such indebtedness; sale of securities; redemption of bonds.—(a) Until the expiration of eighteen months after the termination of the war between the United States and the German Government, as fixed by proclamation of the President, the Secretary of the Treasury, with the approval of the President, is hereby authorized on behalf of the United States to establish, in addition to the credits authorized by section 2 of the Second Liberty Bond Act, as amended, credits with the United States for any foreign government now engaged in war with the enemies of the United States, for the purpose only of providing for purchases of any property owned directly or indirectly by the United States, not needed by the United States, or of any wheat the price of which has been or may be guaranteed by the United States. To the extent of the credits so established from time to time the Secretary of the Treasury is hereby authorized to make advances to or for the account of any such foreign government and to receive at par from such foreign government for the amount of any such advances its obligations hereafter issued bearing such rate or rates of interest, not less than 5 per centum per annum, maturing at such date or dates, not later than October 15, 1938, and containing such terms and conditions, as the Secretary of the Treasury may from time to time prescribe. The Secretary, with the approval of the President, is hereby authorized to enter into such arrangements from time to time with any such foreign government as may be necessary or desirable for establishing such credits and for the payment of such obligations before maturity.

(b) The Secretary of the Treasury is hereby authorized from time to time to convert any short-time obligations of foreign governments which may be received under the authority of this section into long-time obligations of such foreign governments, respectively, maturing not later than October 15, 1938, and in such form and terms as the Secretary of the Treasury may prescribe; but the rate or rates of interest borne by any such long-time obligations at the time of their acquisition shall not be less than the rate borne by the short-time obligations so converted into such long-time obligations; and, under such terms and conditions as he may

from time to time prescribe, to receive payment, on or before maturity, of any obligations of such foreign governments acquired on behalf of the United States under authority of this section, and, with the approval of the President, to sell any of such obligations (but not at less than par with accrued interest unless otherwise hereafter provided by law), and to apply the proceeds thereof, and any payments so received from foreign governments on account of the principal of such obligations, to the redemption or purchase, at not more than par and accrued interest, of any bonds of the United States issued under the authority of the First Liberty Bond Act or Second Liberty Bond Act as amended and supplemented, and if such bonds can not be so redeemed or purchased, the Secretary of the Treasury shall redeem or purchase any other outstanding interest-bearing obligations of the United States which may at such time be subject to redemption or which can be purchased at not more than par and accrued interest.

(c) For the purposes of this section there is appropriated the unexpended balance of the appropriations made by section 2 of the First Liberty Bond Act and by section 2 of the Second Liberty Bond Act as amended by the Third Liberty Bond Act and the Fourth Liberty Bond Act, but nothing in this section shall be deemed to prohibit the use of such unexpended balance or any part thereof for the purposes of section 2 of the Second Liberty Bond Act, as so amended, subject to the limitations therein contained. (Act March 3, 1919, c. 100, § 7.)

§ 6130b. Maturity of obligations of foreign governments.—The obligations of foreign governments acquired by the Secretary of the Treasury by virtue of the provisions of the First Liberty Bond Act and the Second Liberty Bond Act, and amendments and supplements thereto, shall mature at such dates as shall be determined by the Secretary of the Treasury: Provided, That such obligations acquired by virtue of the provisions of the First Liberty Bond Act, or through the conversion of short-time obligations acquired under such Act, shall mature not later than June 15, 1947, and all other such obligations of foreign governments shall mature not later than October 15, 1938. (Act March 3, 1919, c. 100, § 8.)

§ 6131. Interest on and sale of foreign securities; redemption of Federal bonds.

Note.—See §§ 6130a, 6230b, herein, relating to the subject matter of this section.

§ 6132a. Extension of time for conversion of bonds.—The privilege of converting 4 per centum bonds of the First Liberty Loan converted and 4 per centum bonds of the Second Liberty Loan into 4½ per centum bonds, which privilege arose on May 9, 1918, and expired on November 9, 1918, may be extended by the Secretary of the Treasury for such period, upon such terms and conditions and subject to such rules and regulations, as he may prescribe. For the purpose of computing the amount of interest payable, bonds presented for conversion under any such extension shall be deemed to be converted on the dates for the payment of the semiannual interest on the respective bonds so presented for conversion next succeeding the date of such presentation. (Act March 3, 1919, c. 100, § 5.)

§ 6133. Certificates of indebtedness under Act of September 24, 1917.—In addition to the bonds authorized by section one of this Act the Secretary of the Treasury is authorized to borrow from time to time, on the credit of the United States, for the purpose of this Act and to meet public expenditures authorized by law, such sum or sums as in his judgment may be necessary, and to issue therefor certificates of indebtedness of the United States at not less than par in such form or forms and subject to such terms and conditions and at such rate or rates of interest as he may prescribe; and each certificate so issued shall be payable at such time not exceeding one year from the date of its issue, and may be redeemable before maturity upon such terms and conditions, and the interest accruing thereon shall be payable at such time or times as the Secretary of the Treasury may prescribe. The sum of such certificates outstanding hereunder and under section six of said Act approved April twenty-fourth, nineteen hun-

dred and seventeen, shall not at any time exceed in the aggregate \$10,000, 000,000. (Acts Sept. 24, 1917, c. 56, § 5, 40 Stat. 290; April 4, 1918, c. 44, § 4; March 3, 1919, c. 100, § 3.)

§ 6135a. Interest on Liberty bond issues exempt from taxation.—(a) Until the expiration of five years after the date of the termination of the war between the United States and the German Government, as fixed by proclamation of the President, in addition to the exemptions provided in section 7 of the Second Liberty Bond Act in respect to the interest on an amount of bonds and certificates, authorized by such Act and amendments thereto, the principal of which does not exceed in the aggregate \$5,000, and in addition to all other exemptions provided in the Second Liberty Bond Act or the Supplement to Second Liberty Bond Act, the interest received on and after January 1, 1919, on an amount of bonds of the First Liberty Loan Converted, dated November 15, 1917, May 9, 1918, or October 24, 1918, the Second Liberty Loan converted and unconverted, the Third Liberty Loan, and the Fourth Liberty Loan, the principal of which does not exceed \$30,000 in the aggregate, owned by any individual, partnership, association, or corporation, shall be exempt from graduated additional income taxes, commonly known as surtaxes, and excess-profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations.

(b) In addition to the exemption provided in subdivision (a), and in addition to the other exemptions therein referred to, the interest received on and after January 1, 1919, on an amount of the bonds therein specified the principal of which does not exceed \$20,000 in the aggregate, owned by any individual, partnership, association, or corporation, shall be exempt from the taxes therein specified: Provided, That no owner of such bonds shall be entitled to such exemption in respect to the interest on an aggregate principal amount of such bonds exceeding three times the principal amount of notes of the Victory Liberty Loan originally subscribed for by such owner and still owned by him at the date of his tax return. (Act March 3, 1919, c. 100, § 2.)

Note.—Section 7 of the Second Liberty Bond Act, referred to, is § 6135 of Barnes' Federal Code.

§ 6135b. Securities owned by nonresident aliens and foreign corporations exempt from taxation.—Notwithstanding the provisions of the Second Liberty Bond Act or of the War Finance Corporation Act or of any other Act, bonds, notes, and certificates of indebtedness of the United States and bonds of the War Finance Corporation shall, while beneficially owned by a non-resident alien individual, or a foreign corporation, partnership, or association, not engaged in business in the United States, be exempt both as to principal and interest from any and all taxation now or hereafter imposed by the United States, any States, or any of the possessions of the United States or by any local taxing authority. (Acts Sept. 24, 1918, c. 176, § 3; March 3, 1919, c. 100, § 4.)

§ 6143. Titles of bond Acts.—The short title of this Act shall be "Second Liberty Bond Act."

The short title of this Act shall be "Third Liberty Bond Act."

The short title of this Act shall be "Fourth Liberty Bond Act."

The short title of this Act shall be "Victory Liberty Loan Act." (First paragraph, Act Sept. 24, 1917, c. 56, § 17, as added by Act April 4, 1918, c. 44, § 8; third paragraph, Act July 9, 1918, c. 142, § 5; fourth paragraph, Act March 3, 1919, c. 100, § 11.)

Note.—First Liberty Bond Act, April 24, 1917, c. 4, is found at §§ 6120-6128, Barnes' Federal Code, Second Liberty Bond Act, Sept. 24, 1917, c. 56, at §§ 6129-6139; Third Liberty Bond Act, April 4, 1918, c. 44, at §§ 6128-6130, 6132, 6136, 6140-6143; Fourth Liberty Bond Act, July 9, 1918, c. 142, at §§ 6129, 6130, 6135, 6136, 6143; Supplement to Second Liberty Bond Act, Sept. 24, 1918, c. 176, §§ 1-4, 6, 7, at §§ 6134-6136, 6143, 9234, and section 5 thereof amended Trading with the Enemy Act, Oct. 6, 1917, c. 106, § 5, 40 Stat. 415; Victory Liberty Loan Act March 3, 1919, c. 100, is found herein at §§ 6130a, 6130b, 6132a, 6133, 6135a, 6135b, 6143-6143b, 6157, 6161a.

§ 6143a. Victory Liberty Loan; issuance of notes; taxation; conversion; circulation privileges; "bonds" defined.—(a) In addition to the bonds and certificates of indebtedness and war-savings certificates authorized by this

Act and amendments thereto, the Secretary of the Treasury, with the approval of the President, is authorized to borrow from time to time on the credit of the United States for the purposes of this Act, and to meet public expenditures authorized by law, not exceeding in the aggregate \$7,000,000,000, and to issue therefor notes of the United States at not less than par in such form or forms and denomination or denominations, containing such terms and conditions, and at such rate or rates of interest, as the Secretary of the Treasury may prescribe, and each series of notes so issued shall be payable at such time not less than one year nor more than five years from the date of its issue as he may prescribe, and may be redeemable before maturity (at the option of the United States) in whole or in part, upon not more than one year's nor less than four months' notice, and under such rules and regulations and during such period as he may prescribe.

(b) The notes herein authorized may be issued in any one or more of the following series as the Secretary of the Treasury may prescribe in connection with the issue thereof:

(1) Exempt, both as to principal and interest, from all taxation (except estate or inheritance taxes) now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority;

(2) Exempt, both as to principal and interest, from all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority, except (a) estate or inheritance taxes, and (b) graduated additional income taxes, commonly known as surtaxes, and excess-profits and war-profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations;

(3) Exempt, both as to principal and interest, as provided in paragraph (2); and with an additional exemption from the taxes referred to in clause (b) of such paragraph, of the interest on an amount of such notes the principal of which does not exceed \$30,000, owned by any individual, partnership, association, or corporation; or

(4) Exempt, both as to principal and interest, from all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority, except (a) estate or inheritance taxes, and (b) all income, excess-profits, and war-profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations.

(c) If the notes authorized under this section are offered in more than one series bearing the same date of issue, the holder of notes of any such series shall (under such rules and regulations as may be prescribed by the Secretary of the Treasury) have the option of having such notes held by him converted at par into notes of any other such series offered bearing the same date of issue.

(d) None of the notes authorized by this section shall bear the circulation privilege. The principal and interest thereof shall be payable in United States gold coin of the present standard of value. The word "bond" or "bonds" where it appears in sections 8, 9, 10, 14, and 15, of this Act as amended, and sections 3702, 3703, 3704, and 3705 of the Revised Statutes, and section 5200 of the Revised Statutes as amended, but in such sections only, shall be deemed to include notes issued under this section. (Act Sept. 24, 1917, c. 56, § 18, as added by Act March 3, 1919, c. 100, § 1.)

§ 6143b. Sinking fund for retirement of bonds and notes; repeal of laws.—

(a) There is hereby created in the Treasury a cumulative sinking fund for the retirement of bonds and notes issued under the First Liberty Bond Act, the Second Liberty Bond Act, the Third Liberty Bond Act, the Fourth Liberty Bond Act, or under this Act, and outstanding on July 1, 1920. The sinking fund and all additions thereto are hereby appropriated for the payment of such bonds and notes at maturity, or for the redemption or purchase thereof before maturity by the Secretary of the Treasury at such prices and upon such terms and conditions as he shall prescribe, and shall be available until all such bonds and notes are retired. The average cost of the bonds and notes purchased shall not exceed par and accrued interest. Bonds and notes purchased, redeemed, or paid out of the sinking

fund shall be canceled and retired and shall not be reissued. For the fiscal year beginning July 1, 1920, and for each fiscal year thereafter, until all such bonds and notes are retired there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purposes of such sinking fund, an amount equal to the sum of (1) $2\frac{1}{2}$ per centum of the aggregate amount of such bonds and notes outstanding on July 1, 1920, less an amount equal to the par amount of any obligations of foreign Governments held by the United States on July 1, 1920, and (2) the interest which would have been payable during the fiscal year for which the appropriation is made on the bonds and notes purchased, redeemed, or paid out of the sinking fund during such year or in previous years.

The Secretary of the Treasury shall submit to Congress at the beginning of each regular session a separate annual report of the action taken under the authority contained in this section.

(b) Sections 3688, 3694, 3695, and 3696 of the Revised Statutes, and so much of section 3689 of the Revised Statutes as provides a permanent annual appropriation of 1 per centum of the entire debt of the United States to be set apart as a sinking fund, are hereby repealed. (Act March 3, 1919, c. 100, § 6.)

CHAPTER 3.

WAR FINANCE CORPORATION AND CAPITAL ISSUES COMMITTEE.

TITLE I.—WAR FINANCE CORPORATION.

§ 6153a. **Taking over bonds held by railroad administration.**—The War Finance Corporation, as rapidly as funds become available, shall take over from the United States Railroad Administration, at par value and accrued interest, such of the bonds of the United States of the various Liberty loan issues and the Victory loan issue as are held by the said administration at the time of the approval of this Act and which it does not desire to retain. (Act May 8, 1920, c. 172.)

§ 6157. **Reserve fund of Corporation; investment and deposit; redemption of bonds; depositaries and fiscal agents; dissolution of Corporation.**—All net earnings of the Corporation not required for its operations shall be accumulated as a reserve fund until such time as the Corporation liquidates under the terms of this title. Such reserve fund shall, upon the direction of the board of directors, with the approval of the Secretary of the Treasury, be invested in bonds and obligations of the United States, issued or converted after September 24, 1917, or upon like direction and approval may be deposited in member banks of the Federal Reserve System, or in any of the Federal reserve banks, or be used from time to time, as well as any other funds of the Corporation, in the purchase or redemption of any bonds issued by the Corporation. The Federal reserve banks are hereby authorized to act as depositaries for and as fiscal agents of the Corporation in the general performance of the powers conferred by this title. Beginning twelve months after the termination of the war, the date of such termination to be fixed by a proclamation of the President of the United States, the directors of the Corporation shall proceed to liquidate its assets and to wind up its affairs, but the directors of the Corporation, in their discretion, may, from time to time, prior to such date, sell and dispose of any securities or other property acquired by the Corporation. Any balance remaining after the payment of all its debts shall be paid into the Treasury of the United States as miscellaneous receipts, and thereupon the Corporation shall be dissolved. (Acts April 5, 1918, c. 45, § 15; March 3, 1919, c. 100, § 10.)

§ 6161a. **Advances by Corporation to promote export trade.**—(a) The Corporation shall be empowered and authorized, in order to promote commerce with foreign nations through the extension of credits, to make advances upon such terms, not inconsistent with the provisions of this section, as it may prescribe, for periods not exceeding five years from the respective dates of such advances:

(1) To any person, firm, corporation, or association engaged in the business in the United States of exporting therefrom domestic products to foreign countries, if such person, firm, corporation, or association is, in the opinion of the board of directors of the Corporation, unable to obtain

funds upon reasonable terms through banking channels. Any such advance shall be made only for the purpose of assisting in the exportation of such products, and shall be limited in amount to not more than the contract price therefor, including insurance and carrying or transportation charges to the foreign point of destination if and to the extent that such insurance and carrying or transportation charges are payable in the United States by such exporter to domestic insurers and carriers. The rate of interest charged on any such advance shall not be less than 1 per centum per annum in excess of the rate of discount for ninety-day commercial paper prevailing at the time of such advance at the Federal reserve bank of the district in which the borrower is located; and

(2) To any bank, banker, or trust company in the United States which after this section takes effect makes an advance to any such person, firm, corporation, or association for the purpose of assisting in the exportation of such products. Any such advance shall not exceed the amount remaining unpaid of the advances made by such bank, banker, or trust company to such person, firm, corporation, or association for such purpose.

(b) The aggregate of the advances made by the Corporation under this section remaining unpaid shall never at any time exceed the sum of \$1,000,000,000.

(c) Notwithstanding the limitation of section 1 the advances provided for by this section may be made until the expiration of one year after the termination of the war between the United States and the German Government as fixed by proclamation of the President. Any such advance made by the Corporation shall be made upon the promissory note or notes of the borrower, with full and adequate security in each instance by indorsement, guaranty, or otherwise. The Corporation shall retain power to require additional security at any time. The Corporation in its discretion may upon like security extend the time of payment of any such advance through renewals, the substitution of new obligations, or otherwise, but the time for the payment of any such advance shall not be extended beyond five years from the date on which it was originally made. (Act April 5, 1918, c. 45, § 21, as added by Act March 3, 1919, c. 100, § 9.)

Note.—See also §§ 6149-6152 of Barnes' Federal Code.

TITLE XLIV.

PUBLIC CONTRACTS.

§ 6174. Advertisements for proposals.

Note 1.—By Act March 1, 1919, c. 86, § 1, it is provided that "hereafter section 3709 of the Revised Statutes of the United States shall not be construed to apply to any purchase or service rendered for the Department of Commerce when the aggregate amount involved does not exceed the sum of \$25."

Note 2.—Act May 29, 1920, c. 214, § 1, provides that "hereafter section 3709 of the Revised Statutes of the United States shall not be construed to apply to any purchase or service rendered for the Department of Justice when the aggregate amount involved does not exceed the sum of \$25."

§ 6181. Price and purchase of typewriters.—No part of any money appropriated by this or any other Act shall be used during the fiscal year 1921 for the purchase of any typewriting machine at a price in excess of the lowest price paid by the Government of the United States for the same make and substantially the same model of machine during the fiscal year 1919; such price shall include the value of any typewriting machine or machines given in exchange, but shall not apply to special prices granted on typewriting machines used in schools of the District of Columbia or of the Indian Service, the lowest of which special prices paid for typewriting machines shall not be exceeded in future purchases for such schools: Provided, That in construing this section the Commissioner of Patents shall advise the Comptroller of the Treasury as to whether the changes in any typewriter are of such structural character as to constitute a new machine not within the limitations of this section.

All purchases of typewriting machines during the fiscal year 1921 by the various branches of the Government of the United States for use in the District of Columbia or in the field, except as hereinafter provided, shall be made from the surplus machines in the stock of the General Supply Committee. The War Department shall furnish the General Supply Committee, immediately upon the approval of this Act, a complete inventory of the various makes, models, and classes of typewriters in its possession, the condition of such machines, and the point of storage, and shall turn over to the General Supply Committee such typewriting machines in such quantities as the Secretary of the Treasury from time to time may call for by specific requisition for sale to the various services of the Government. If the General Supply Committee is unable to furnish serviceable machines to any branch of the Government, it shall furnish unserviceable machines at current exchange prices and such machines shall then be applied by the branch of the Government receiving them as part payment for new machines from commercial sources in accordance with the prices fixed in the preceding paragraph. After the approval of this Act and until June 30, 1921, the War Department shall not dispose of any typewriting machines except to the General Supply Committee as authorized herein: Provided, That hereafter no typewriter that has been used less than three years shall be sold, exchanged, or given as part payment for another typewriter. (Acts May 10, 1916, c. 117, § 4, 39 Stat. 120; May 29, 1920, c. 214, § 4.)

Note.—Acts March 1, 1919, c. 86, § 5, and July 11, 1919, c. 8, § 1, made provisions for the fiscal year 1920 similar to those contained in the first paragraph of this section.

§ 6181a. Disposal of used typewriters.—Hereafter no department or other Government establishment shall dispose of any typewriting machines by sale, exchange, or as part payment for another typewriter, that has been used less than three years. (Act June 5, 1920, c. 235, § 7.)

§ 6182. Motor ambulances for Army.—The Secretary of War may, in his discretion, select types and makes of motor ambulances for the Army and authorize their purchase without regard to the laws prescribing advertisement for proposals for supplies and materials for the Army. (Acts Aug. 29, 1916, c. 418, § 1, 39 Stat. 639; Oct. 6, 1917, c. 79, § 1, 40 Stat. 364; July 9, 1918, c. 143, I, 40 Stat.; July 11, 1919, c. 8, § 1.)

§ 6249a. Use of war-time supplies; expenditures to influence legislation by Congress.—The heads of the several executive departments and other responsible officials, in expending appropriations contained in this or any other Act, so far as possible shall purchase material, supplies, and equipment, when needed and funds are available, from other services of the Government possessing material, supplies, and equipment no longer required because of the cessation of war activities. It shall be the duty of the heads of the several executive departments and other officials, before purchasing any of the articles described herein, to ascertain from the other services of the Government whether they have articles of the character described that are serviceable. And articles purchased by one service from another, if the same have not been used, shall be paid for at a reasonable price not to exceed actual cost, and if the same have been used, at a reasonable price based upon length of usage. The various services of the Government are authorized to sell such articles under the conditions specified, and the proceeds of such sales shall be covered into the Treasury as a miscellaneous receipt: Provided, That this section shall not be construed to amend, alter, or repeal the Executive order of December 3, 1918, concerning the transfer of office material, supplies, and equipment in the District of Columbia falling into disuse because of the cessation of war activities.

Hereafter no part of the money appropriated by this or any other Act shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers and employees of the United States from communicating to Members of Congress

on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business. Any officer or employee of the United States who, after notice and hearing by the superior officer vested with the power of removing him, is found to have violated or attempted to violate this section, shall be removed by such superior officer from office or employment. Any officer or employee of the United States who violates or attempts to violate this section shall also be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than \$500 or by imprisonment for not more than one year, or both. (Act July 11, 1919, c. 16, §§ 5, 6.)

TITLE XLV.

PUBLIC PROPERTY AND PUBLIC BUILDINGS.

§ 6252a. Disposal of real property by sale or lease.—The President is hereby authorized, through the head of any executive department, upon terms and conditions considered advisable by him or such head of department, to sell or lease real property or any interest therein or appurtenant thereto acquired by the United States of America since April 6, 1917, for storage purposes for the use of the Army, which in the judgment of the President or the head of such department is no longer needed for use by the United States of America, and to execute and deliver in the name of the United States and in its behalf any and all contracts, conveyances, or other instruments necessary to effectuate any such sale or lease. (Act July 11, 1919, c. 8, § 1, sub. ch. II.)

§ 6293. Rent of buildings in District of Columbia.

Note.—By appropriation Act March 1, 1919, c. 86, § 1, the Secretary of Commerce is authorized in his discretion to enter into a contract for the lease for a period not to exceed five years with an option for a period of five additional years, of the Commerce Building, now occupied by the Department of Commerce, at an annual rental not to exceed \$65,500.

§ 6300a. Public Buildings Commission.—With a view to the control and allotment of space in owned or leased Government buildings in the District of Columbia, a Public Buildings Commission is hereby created to be composed of two Senators to be appointed by the President of the Senate and two Members of the House of Representatives to be appointed by the Speaker, who shall serve thereon only so long as they are Members of Congress, and the Superintendent of the Capitol Building and Grounds, the officer in charge of public buildings and grounds, and the Supervising Architect or the Acting Supervising Architect of the Treasury during any vacancy in said office. Said commission shall elect one of its members as chairman of the commission and is authorized to employ such expert clerical or other services as it may deem necessary.

Any vacancies in said commission shall be filled in the same manner as the original appointments were made.

Said commission shall have the absolute control of and the allotment of all space in the several public buildings owned or buildings leased by the United States in the District of Columbia, with the exception of the Executive Mansion and office of the President, Capitol Building, the Senate and House Office Buildings, the Capitol power plant, the buildings under the jurisdiction of the Regents of the Smithsonian Institution, and the Congressional Library Building, and shall from time to time assign and allot, for the use of the several activities of the Government, all such space.

For expenses of said commission, \$10,000, to be immediately available and remain available until expended and to be paid out on vouchers signed by the chairman of said commission. (Act March 1, 1919, c. 86, § 10.)

TITLE XLVI.

PUBLIC PRINTING, ADVERTISEMENTS, AND PUBLIC DOCUMENTS.

§ 6308. Joint Committee to remedy delay in public printing and binding.—The Joint Committee on Printing shall have power to adopt and employ such measures as, in its discretion, may be deemed necessary to remedy any neglect, delay, duplication, or waste in the public printing and binding and the distribution of Government publications. (Acts Jan. 12, 1895, c. 23, § 2, 28 Stat. 601; March 1, 1907, c. 2284, § 1, 34 Stat. 1012; March 1, 1919, c. 86, § 11.)

§ 6349. On and after the passage of this Act the pay of all printers, printer linotype operators, printer monotype keyboard operators, makers-up, copy editors, proof readers, bookbinders, bookbinder-machine operators, and pressmen employed in the Government Printing Office shall be at the rate of 75 cents per hour for the time actually employed. (Acts March 4, 1909, c. 299, § 1, 35 Stat. 1024; Aug. 24, 1912, c. 355, § 1, 37 Stat. 482; Aug. 2, 1919, c. 30, § 1.)

Note.—See § 6348.

§ 6472. Specific authority required for printing and binding.

Note.—By appropriation Act March 1, 1919, c. 86, § 11, it is provided that "hereafter no journal, magazine, periodical, or other similar publication, shall be printed and issued by any branch or officer of the Government service unless the same shall have been specifically authorized by Congress, but such publications as are now being printed without specific authority from Congress may, in the discretion of the Joint Committee on Printing, be continued until the close of the next regular session of Congress, when, if authority for their continuance is not then granted by Congress they shall not thereafter be printed: Provided further, That on and after July 1, 1919, all printing, binding, and blank-book work for Congress, the Executive Office, the judiciary, and every executive department, independent office, and establishment of the Government, shall be done at the Government Printing Office, except such classes of work as shall be deemed by the Joint Committee on Printing to be urgent or necessary to have done elsewhere than in the District of Columbia for the exclusive use of any field service outside of said District."

§ 6489a. Printing for Weather Bureau.—No printing shall be done by the Weather Bureau that, in the judgment of the Secretary of Agriculture, can be done at the Government Printing Office without impairing the service of said bureau: And provided further, That the proviso contained in section 11 of the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1920, shall not prohibit the printing in the printing office of the Weather Bureau in the city of Washington of the maps, bulletins, circulars, forms, and other publications herein authorized. (Act July 24, 1919, c. 26, § 1.)

§ 6491a. Annual report by departments as to printing and distribution of publications.—Hereafter the head of each department and independent establishment of the Government shall on the first day of each regular session submit in writing a report to the Congress giving the aggregate number of the various publications it has issued during the preceding fiscal year giving same in detail, and shall also report the cost of paper used for such publications, cost of printing and the cost of preparation of each publication, and the number of each which has been distributed. (Act June 5, 1920, c. 253.)

TITLE XLVII.

WEIGHTS, MEASURES, AND TIME.

§ 6502. Standard gauge for sheet and plate iron and steel.

Note.—By Act March 1, 1919, c. 86, § 1, there was appropriated the sum of \$40,000, in order "to provide by cooperation of the Bureau of Standards, the War Department, the Navy Department, and the Council of National Defense, for the standardization and testing of the standard gauges, screw threads, and standards required in manufacturing throughout the United States, and to calibrate and test such standard gauges, screw threads, and standards, including necessary equipment, and personal services in the District of Columbia and in the field."

§ 6520. Standardization of screw threads.—A commission is hereby created, to be known as the Commission for the Standardization of Screw Threads, hereinafter referred to as the commission, which shall be composed of nine commissioners, one of whom shall be the Director of the Bureau of Standards, who shall be chairman of the commission; two representatives of the Army, to be appointed by the Secretary of War; two representatives of the Navy, to be appointed by the Secretary of the Navy; and four to be appointed by the Secretary of Commerce, two of whom shall be chosen from nominations made by the American Society of Mechanical Engineers and two from nominations made by the Society of Automotive Engineers.

It shall be the duty of said commission to ascertain and establish standards for screw threads, which shall be submitted to the Secretary of War, the Secretary of the Navy, and the Secretary of Commerce for their acceptance and approval. Such standards, when thus accepted and approved, shall be adopted and used in the several manufacturing plants under the control of the War and Navy Departments, and, so far as practicable, in all specifications for screw threads in proposals for manufactured articles, parts, or materials to be used under the direction of these departments.

The Secretary of Commerce shall promulgate such standards for use by the public and cause the same to be published as a public document.

The commission shall serve without compensation, but nothing herein shall be held to affect the pay of the commissioners appointed from the Army and Navy or of the Director of the Bureau of Standards.

The commission may adopt rules and regulations in regard to its procedure and the conduct of its business.

The commission shall cease and terminate at the end of one year and six months from the date of its original appointment. (Acts July 18, 1918, cc. 96, 156, §§ 1-6, 40 Stat.; March 3, 1919.)

Note.—By Res. March 23, 1920, No. 34, c. 106, the term of the National Screw Thread Commission is extended for an additional period of two years from March 21, 1920.

§ 6521. Standard time.—For the purpose of establishing the standard time of the United States, the territory of continental United States shall be divided into five zones in the manner hereinafter provided. The standard time of the first zone shall be based on the mean astronomical time of the seventy-fifth degree of longitude west from Greenwich; that of the second zone on the ninetieth degree; that of the third zone on the one hundred and fifth degree; that of the fourth zone on the one hundred and twentieth degree; and that of the fifth zone, which shall include only Alaska, on the one hundred and fiftieth degree. That the limits of each zone shall be defined by an order of the Interstate Commerce Commission, having regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in commerce between the several States and with foreign nations, and such order may be modified from time to time,

Within the respective zones created under the authority hereof the standard time of the zone shall govern the movement of all common carriers engaged in commerce between the several States or between a State and any of the Territories of the United States, or between a State or the Territory of Alaska and any of the insular possessions of the United States or any foreign country. In all statutes, orders, rules, and regulations relating to the time of performance of any act by any officer or department of the United States, whether in the legislative, executive, or judicial branches of the Government, or relating to the time within which any rights shall accrue or determine, or within which any act shall or shall not be performed by any person subject to the jurisdiction of the United States, it shall be understood and intended that the time shall be the United States standard time of the zone within which the act is to be performed.

The standard time of the first zone shall be known and designated as United States Standard Eastern Time; that of the second zone shall be known and designated as United States Standard Central Time; that of the third zone shall be known and designated as United States Standard Mountain Time; that of the fourth zone shall be known and designated as United States Standard Pacific Time, and that of the fifth zone shall be known and designated as United States Standard Alaska Time.

All Acts and parts of Acts in conflict herewith are hereby repealed. (Acts March 19, 1918, c. 24, §§ 1-5, 40 Stat.; Aug. 20, 1919, c. 51, 41 Stat. 280.)

TITLE XLVIII.

THE POSTAL SERVICE.

CHAPTER 1.

POST OFFICES AND POSTMASTERS.

§ 6523. **Classes of postmasters.**—Postmasters shall be divided into four classes, as follows:

The first class shall embrace all those whose annual salaries are \$3,200 or more;

The second class shall embrace all those whose annual salaries are less than \$3,200, and not less than \$2,300;

The third class shall embrace all those whose annual salaries are less than \$2,300, but not less than \$1,000.

The fourth class shall embrace all postmasters whose annual compensation, exclusive of their commissions on the money-order business of their offices, amounts to less than \$1,000. (Acts July 12, 1876, c. 179, § 5, 19 Stat. 80; June 5, 1920, c. 254.)

§ 6524a. **Vacancy in office of postmaster.**—Whenever the office of a postmaster becomes vacant through death, resignation, or removal, the Postmaster General shall designate some person to act as postmaster until a regular appointment can be made by the President, and the Postmaster General shall notify the Auditor for the Post Office Department of the change. The postmaster so appointed shall be responsible under his bond for the safekeeping of the public property of the post office and the performance of the duties thereof until a regular postmaster has been duly appointed and qualified and has taken possession of the office. Whenever a vacancy occurs from any cause, the appointment of a regular postmaster shall be made without unnecessary delay. (Act April 24, 1920, c. 161, § 1.)

§ 6552. **Salaries of first, second and third class postmasters.**—The respective compensation of postmasters of the first, second, and third classes shall be annual salaries, graded in even hundreds of dollars, and payable in semimonthly payments to be ascertained and fixed by the Postmaster General from their respective quarterly returns to the Auditor for the Post Office Department, or copies or duplicates thereof to the First Assistant Postmaster General, for the calendar year immediately preceding the adjustment, based on gross postal receipts at the following rates, namely:

Third class: \$1,500, but less than \$1,600, \$1,000; \$1,600, but less than \$1,700, \$1,100; \$1,700, but less than \$1,900, \$1,200; \$1,900, but less than \$2,100, \$1,300; \$2,100, but less than \$2,400, \$1,400; \$2,400, but less than \$2,700, \$1,500; \$2,700, but less than \$3,000, \$1,600; \$3,000, but less than \$3,500, \$1,700; \$3,500, but less than \$4,200, \$1,800; \$4,200, but less than \$5,000, \$1,900; \$5,000, but less than \$6,000, \$2,000; \$6,000, but less than \$7,000, \$2,100; \$7,000, but less than \$8,000, \$2,200.

Second class: \$8,000, but less than \$10,000, \$2,300; \$10,000, but less than \$12,000, \$2,400; \$12,000, but less than \$15,000, \$2,500; \$15,000, but less than \$18,000, \$2,600; \$18,000, but less than \$22,000, \$2,700; \$22,000, but less than \$27,000, \$2,800; \$27,000, but less than \$33,000, \$2,900; \$33,000, but less than \$40,000, \$3,000.

First class: \$40,000, but less than \$50,000, \$3,200; \$50,000, but less than \$60,000, \$3,300; \$60,000, but less than \$75,000, \$3,400; \$75,000, but less than \$90,000, \$3,500; \$90,000, but less than \$120,000, \$3,600; \$120,000, but less than \$150,000, \$3,700; \$150,000, but less than \$200,000, \$3,800; \$200,000, but less than \$250,000, \$3,900; \$250,000, but less than \$300,000, \$4,000; \$300,000, but less than \$400,000, \$4,200; \$400,000, but less than \$500,000, \$4,500; \$500,000, but less than \$600,000, \$5,000; \$600,000, but less than \$700,000, \$6,000; \$7,000,000 and upward, \$8,000.

And in order to ascertain the amount of the postal receipts of each office, the Postmaster General may require postmasters to furnish the department with certified copies of their quarterly returns to the auditor at such times and for such periods as he may deem necessary in each case. (Acts March 3, 1883, c. 142, § 1, 22 Stat. 600; July 26, 1916, c. 261, § 1, 39 Stat. 413; June 5, 1920, c. 254.)

§ 6555. Salary of fourth class postmasters.—The compensation of postmasters of the fourth class shall be fixed upon the basis of the whole of the box rents collected at their offices and commissions upon the amount of canceled postage-due stamps and on postage stamps, stamped envelopes, and postal cards canceled, on matter actually mailed at their offices, and on the amount of newspaper and periodical postage collected in money, and on the postage collected in money on identical pieces of third and fourth class matter mailed under the provisions of the Act of April 28, 1904, without postage stamps affixed and on postage collected in money on matter of the first class mailed under the provisions of the Act of April 24, 1920, without postage stamps affixed, and on amounts received from waste paper, dead newspapers, printed matter, and twine sold at the following rates, namely:

When the amount does not exceed \$75 for any one quarter the postmaster shall be allowed 145 per centum on the amount.

When the amount exceeds \$75 for any one quarter and does not exceed \$100, the postmaster shall be allowed 120 per centum on the amount.

When the amount exceeds \$100 for any one quarter, the postmaster shall be allowed—on the first \$100, 115 per centum; on the next \$100 or less 75 per centum; and on the balance 60 per centum, the same to be ascertained and allowed by the Auditor for the Post Office Department in the settlement of the accounts of such postmasters upon their sworn quarterly returns: Provided, That when the total compensation of any postmaster at a post office of the fourth class for four consecutive quarters shall amount to \$1,000, exclusive of commissions on money orders issued, and the receipts of such post office for the same period shall aggregate as much as \$1,500, the office shall be assigned to its proper class and the salary of the postmaster fixed according to the receipts: Provided further, That in no case shall there be allowed any postmaster of this class a compensation greater than \$250 in any one of the first three quarters of the fiscal year, exclusive of money order commissions, and in the last quarter of each fiscal year there shall be allowed such further sum as he may be entitled to under the provisions of this Act, not exceeding for the whole fiscal year the sum of \$1,000, exclusive of money-order commissions; And provided further, That whenever unusual conditions prevail, the Postmaster General, in his discretion, may advance any post office from the fourth class to the appropriate class indicated by the receipts of the preceding quarter, notwithstanding the proviso which requires the compensation of fourth-class postmasters to reach \$1,000 for four consecutive quarters, exclusive of commissions on money-order business, and that the receipts of such post office

for the same period shall aggregate as much as \$1,500 before such advancement is made: And provided further, That when the Postmaster General has exercised the authority herein granted, he shall, whenever the receipts are no longer sufficient to justify retaining such post office in the class to which it has been advanced, reduce the grade of such office to the appropriate class indicated by its receipts for the last preceding quarter. (Acts March 3, 1883, c. 142, § 2, 22 Stat. 602; Feb. 28, 1919, c. 69, § 2; June 5, 1920, c. 254.)

§ 6556a. Advancement of fourth class office to higher class.—Wherever unusual conditions prevail, the Postmaster General, in his discretion, may advance any post office from the fourth class to the appropriate presidential class indicated by the receipts of the preceding quarter, notwithstanding section 16 of the Act approved May 18, 1916, as amended, which requires the compensation of four-class postmasters to reach \$1,000 for four consecutive quarters, exclusive of commissions on money-order business, and that the receipts of such post office for the same period shall aggregate as much as \$1,900, before such advancement is made: Provided further, That in cases where the Postmaster General has exercised the authority herein granted, he shall wherever the receipts are no longer sufficient to justify retaining such post office in the presidential class to which it has been advanced, reduce the grade of such office to the appropriate class indicated by its receipts for the last preceding quarter. (Act April 24, 1920, c. 161, § 1.)

§ 6569. Salaries of officers and employees at offices of first and second class; promotions; transfers.—The Postmaster General is authorized to fix the salaries of assistant postmasters at offices of the second class, based on gross postal receipts for the calendar year immediately preceding the adjustment at the following rates, namely:

Eight thousand dollars, but less than \$10,000, \$1,800; \$10,000, but less than \$12,000, \$1,850; \$12,000, but less than \$15,000, \$1,900; \$15,000, but less than \$18,000, \$1,950; \$18,000, but less than \$22,000, \$2,000; \$22,000, but less than \$27,000, \$2,050; \$27,000, but less than \$33,000, \$2,100; \$33,000, but less than \$40,000, \$2,150.

At offices of the first class, the annual salaries of the employees, other than those in the automatic grades, shall be in even hundreds of dollars based upon the gross postal receipts for the preceding calendar year, as follows:

Receipts \$40,000, but less than \$50,000—Assistant postmaster, \$2,200; superintendent of mails, \$2,100. Receipts \$50,000, but less than \$60,000—Assistant postmaster, \$2,200; superintendent of mails, \$2,100. Receipts \$60,000, but less than \$75,000—Assistant postmaster, \$2,200; superintendent of mails, \$2,100. Receipts \$75,000, but less than \$90,000—Assistant postmaster, \$2,300; superintendent of mails, \$2,200. Receipts \$90,000, but less than \$120,000—Assistant postmaster, \$2,400; superintendent of mails, \$2,300; foremen, \$2,000. Receipts \$120,000, but less than \$150,000—Assistant postmaster, \$2,500; superintendent of mails, \$2,400; foremen, \$2,000. Receipts \$150,000, but less than \$200,000—Assistant postmaster, \$2,600; superintendent of mails, \$2,500; foremen, \$2,000. Receipts \$200,000, but less than \$250,000—Assistant postmaster, \$2,700; superintendent of mails, \$2,600; foremen, \$2,000. Receipts \$250,000, but less than \$300,000—Assistant postmaster, \$2,800; superintendent of mails, \$2,700; assistant superintendent of mails, \$2,200; foremen, \$2,000. Receipts \$300,000, but less than \$400,000—Assistant postmaster, \$2,900; superintendent of mails, \$2,800; assistant superintendent of mails, \$2,200; foremen, \$2,000. Receipts \$400,000, but less than \$500,000—Assistant postmaster, \$3,000; superintendent of mails, \$2,900; assistant superintendent of mails, \$2,200; foremen, \$2,000. Receipts \$500,000, but less than \$600,000—Assistant postmaster, \$3,200; superintendent of mails, \$3,000; assistant superintendents of mails, \$2,300; foremen, \$2,000; postal cashier, \$2,600; money-order cashier, \$2,300. Receipts \$600,000, but less than \$1,000,000—Assistant postmaster, \$3,400; superintendent of mails, \$3,200; assistant superintendents of mails, \$2,500; foremen, \$2,000 and \$2,100; postal cashier, \$2,800; money-order cashier, \$2,500. Receipts \$1,000,000, but less than \$2,000,000—Assistant postmaster, \$3,600; superintendent of mails, \$3,400; assistant superintendents of mails, \$2,200, \$2,500 and \$2,800; foremen, \$2,000 and \$2,200; postal cashier, \$3,000; assistant cashiers, \$2,300; money-order cashier, \$2,700; bookkeepers, \$2,000; station examiners, \$2,000.

Receipts \$2,000,000, but less than \$3,000,000—Assistant postmaster, \$3,700; superintendent of mails, \$3,500; assistant superintendents of mails, \$2,300, \$2,500, \$2,700, and \$3,000; foremen, \$2,000 and \$2,200; postal cashier, \$3,100; assistant cashiers, \$2,200 and \$2,400; money-order cashier, \$2,800; bookkeepers, \$2,000 and \$2,200; station examiners, \$2,300. Receipts \$3,000,000, but less than \$5,000,000—Assistant postmaster, \$3,800; superintendent of mails, \$3,600; assistant superintendents of mails, \$2,300, \$2,500, \$2,800 and \$3,200; foremen, \$2,000 and \$2,200; postal cashier, \$3,300; assistant cashiers, \$2,200, \$2,400, and \$2,800; money-order cashier, \$3,000; bookkeepers, \$2,000 and \$2,200; station examiners, \$2,300 and \$2,500. Receipts \$5,000,000, but less than \$7,000,000—Assistant postmaster, \$4,000; superintendent of mails, \$3,800; assistant superintendents of mails, \$2,300, \$2,500, \$2,800, \$3,000, and \$3,400; foremen, \$2,000 and \$2,200; postal cashier, \$3,500; assistant cashiers, \$2,200, \$2,600, and \$2,800; money-order cashier, \$3,200; bookkeepers, \$2,000, \$2,200, and \$2,300; station examiners, \$2,300 and \$2,500. Receipts \$7,000,000, but less than \$9,000,000—Assistant postmaster, \$4,300; superintendent of mails, \$4,000; assistant superintendents of mails, \$2,300, \$2,500, \$2,800, \$3,200, and \$3,600; foremen, \$2,000 and \$2,200; postal cashier, \$3,700; assistant cashiers, \$2,300, \$2,500, \$2,800, and \$3,000; money-order cashier, \$3,300; bookkeepers, \$2,000, \$2,200, and \$2,300; station examiners, \$2,300 and \$2,500. Receipts \$9,000,000, but less than \$20,000,000—Assistant postmaster, \$4,500; superintendent of mails, \$4,200; assistant superintendents of mails, \$2,400, \$2,500, \$2,800, \$3,200, \$3,400, and \$3,800; foremen, \$2,000, \$2,200, and \$2,300; postal cashier, \$3,800; assistant cashiers, \$2,300, \$2,500, \$2,800, and \$3,000; money-order cashier, \$3,400; bookkeepers, \$2,000, \$2,200, \$2,300, and \$2,500; station examiners, \$2,300 and \$2,500. Receipts \$20,000,000 and upward—Assistant postmaster, \$4,600; superintendent of mails, \$4,400; assistant superintendents of mails, \$2,400, \$2,600, \$2,800, \$3,200, \$3,600, and \$3,800; superintendent of delivery, \$4,400; assistant superintendents of delivery, \$2,400, \$2,600, \$2,800, \$3,200, \$3,600, and \$3,800; foremen, \$2,000, \$2,200, and \$2,300; superintendent of registry, \$4,000; assistant superintendents of registry, \$2,400, \$2,600, \$2,800, and \$3,200; superintendent of money order, \$4,000; assistant superintendent of money order, \$3,800; auditor, \$3,600; postal cashier, \$4,000; assistant cashiers, \$2,300, \$2,500, \$2,800, \$3,000, and \$3,200; money-order cashier, \$3,600; bookkeepers, \$2,100, \$2,300, \$2,500, and \$3,000; station examiners, \$2,300 and \$2,500. Not more than one assistant superintendent of mails, one assistant superintendent of delivery, one assistant superintendent of registry, and one assistant cashier shall be paid the maximum salary provided for these positions at any office, except where the receipts are \$9,000,000 and less than \$20,000,000, to which offices two assistant superintendents of mails shall be assigned at the maximum salary, one to be in charge of the city-delivery service: And provided further, That in post offices designated as State depositories for surplus postal funds and central accounting offices where the gross postal receipts are less than \$500,000 and no postal cashier is provided the employee directly in charge of the records and adjustments of such accounts shall be allowed an increase of \$200 per annum, and if the gross postal receipts of such offices are \$500,000 and less than \$5,000,000, the postal cashier shall be allowed an increase of \$200 per annum.

The salary of superintendents of classified stations shall be based on the number of regular employees assigned thereto and the annual postal receipts: Provided, That no allowance shall be made for sales of stamps to patrons residing outside of the territory of the stations. At delivery stations each \$100,000 of postal receipts shall be considered equal to one additional employee. At nondelivery classified stations, known as finance stations, each \$25,000 of postal receipts shall be considered as equal to one additional employee.

At classified stations having less than four employees and where the receipts are less than \$100,000 the salary of the superintendent shall not be greater than that of a special clerk.

At classified stations having four employees or more the salary of the superintendent shall be as follows: Four and not exceeding six employees, \$2,100; seven and not exceeding eighteen employees, \$2,200; nineteen and not exceeding thirty-two employees, \$2,300; thirty-three and not exceeding forty-four employees, \$2,400; forty-five and not exceeding sixty-four employees, \$2,500; sixty-five and not exceeding ninety employees, \$2,600;

ninety-one and not exceeding one hundred and twenty employees, \$2,700; one hundred and twenty and not exceeding one hundred and fifty employees, \$2,800; one hundred and fifty-one and not exceeding three hundred and fifty employees, \$3,000; three hundred and fifty-one employees and over, \$3,200.

At classified stations having sixty-five or more employees there may be an assistant superintendent of stations with salary as follows: Sixty-five and not exceeding ninety employees, \$2,200; ninety-one and not exceeding one hundred and twenty employees, \$2,300; one hundred and twenty-one and not exceeding one hundred and fifty employees, \$2,400; one hundred and fifty-one and not exceeding three hundred and fifty employees, \$2,600; three hundred and fifty-one employees and over, \$2,800.

Clerks in first and second-class post offices and letter carriers in the City Delivery Service shall be divided into five grades as follows: First grade—salary, \$1,400; second grade—salary, \$1,500; third grade—salary, \$1,600; fourth grade—salary, \$1,700; fifth grade—salary, \$1,800: Provided, That in the readjustment of grades for clerks at first and second class post offices and letter carriers in the City Delivery Service to conform to the grades herein provided, grade 1 shall include present grade 1, grade 2 shall include present grade 2, grade 3 shall include present grade 3, grade 4 shall include present grade 4, and grade 5 shall include present grades 5 and 6: Provided further, That hereafter substitute clerks in first and second class post offices and substitute letter carriers in the City Delivery Service when appointed regular clerks or carriers shall have credit for actual time served on a basis of one year for each three hundred and six days of eight hours served as substitute, and appointed to the grade to which such clerk or carrier would have progressed had his original appointment as substitute been to grade one: And provided further, That clerks in first and second class post offices and letter carriers in the City Delivery Service shall be promoted successively after one year's satisfactory service in each grade to the next higher grade until they reach the fifth grade. All promotions shall be made at the beginning of the quarter following one year's satisfactory service in the grade: And provided further, That there shall be two grades of special clerks as follows: First grade—salary, \$1,900; second grade—salary, \$2,000: And provided further, That printers, mechanics, and skilled laborers shall, for the purpose of promotion and compensation, be deemed a part of the clerical force.

The pay of substitute, temporary, or auxiliary clerks at first and second class post offices and substitute letter carriers in the City Delivery Service shall be at the rate of 60 cents per hour.

Watchmen, messengers, and laborers in first and second class post offices shall be divided into two grades, as follows: First grade—salary, \$1,350; second grade—salary, \$1,450: Provided, That watchmen, messengers, and laborers shall be promoted to the second grade after one year's satisfactory service in the first grade.

All employees herein provided for in automatic grades, who have not reached the maximum grades to which they are entitled to progress automatically, shall be promoted at the beginning of the quarter following the completion of one year's satisfactory service since their last promotion, regardless of any increases in salaries granted them by the provisions of this Act.

On and after July 1, 1921, no supervisory official or employee in the Postal Service shall be promoted more than \$300 during one year, except when appointed postmaster, inspector in charge, or Superintendent of the Railway Mail Service.

The Postmaster General may, when the interest of the service requires, transfer any clerk to the position of carrier or any carrier to the position of clerk, such transfer to be made to the corresponding grade and salary of the clerk or carrier transferred. (Act March 2, 1889, c. 374, § 1, 25 Stat. 841; Feb. 28, 1919, c. 69, §§ 1, 2; April 24, 1920, c. 161, § 1; June 5, 1920, c. 254.)

Note 1.—The Act last cited provides that "in fixing the salaries of supervisory employees in the post office at Washington, District of Columbia, the Postmaster General may in his discretion add not to exceed 50 per centum to the gross postal receipts of that office."

Note 2.—By Act March 1, 1919, c. 86, § 1, it is provided that "in making readjustments hereunder, the salary of any clerk in any class may be fixed by the Postmaster General at \$100 below the salary fixed by law for such

class and the unused portion of such salary shall be used to increase the salary of any clerk in any class entitled thereto by not less than \$100 above the salary fixed by law for such class. The Postmaster General shall assign to the several bureaus, offices, and divisions of the Post Office Department such number of the employees herein authorized as may be necessary to perform the work required therein; and he shall submit a statement showing such assignments and the number employed at the various salaries in the annual Book of Estimates following the estimates for salaries in the Post Office Department."

§ 6570. Allowance for clerical services and assistant postmasters at offices of third class.—No allowance to third-class post offices to cover the cost of clerical services in excess of \$450 shall be made where the salary of the postmaster is \$1,000, \$1,100, or \$1,200; nor in excess of \$600 where the salary of the postmaster is \$1,300, \$1,400, or \$1,500; nor in excess of \$700 where the salary of the postmaster is \$1,600, \$1,700, or \$1,800; nor in excess of \$900 where the salary of the postmaster is \$1,900 or \$2,000; nor in excess of \$1,200 where the salary of the postmaster is \$2,100 or \$2,200: Provided, That the Postmaster General may in the disbursement of the appropriation for this purpose and within its limitation provide the employment at a maximum salary of \$900 per annum of assistant postmasters at post offices of the third class where the salary of the postmaster is \$2,100 or \$2,200 per annum. (Acts March 3, 1917, c. 162, 39 Stat. 1063; Feb. 28, 1919, c. 69, § 1; April 24, 1920, c. 161, § 1, June 5, 1920, c. 254.)

Note.—See § 6552.

§ 6571. Appointment and assignment of clerks; vacation; over-time.—Hereafter the appointment and assignment of clerks hereunder shall be so made during each fiscal year as not to involve a greater aggregate expenditure than the sum appropriated; and to enable the Postmaster General to carry out the provisions of this Act he may hereafter exceed the number of clerks appropriated for for particular grades: Provided further, That hereafter the fifteen days' annual vacation allowed by law to clerks and other employees in first and second class offices shall be credited at the rate of one and one-quarter days for each month of actual service: Provided further, That hereafter whenever practicable in case of emergency or otherwise a substitute is available the postmaster is prohibited from employing a regular clerk over time: Provided, That the number of clerks in the aggregate as herein authorized be not exceeded. (Acts July 28, 1916, c. 261, § 1, 39 Stat. 416; March 3, 1917, c. 162, § 1, 39 Stat. 1062; Feb. 28, 1919, c. 69, § 1; April 24, 1920, c. 161, § 1.)

Note.—See §§ 6577-6579 in Barnes' Federal Code for related legislation.

§ 6572. Foremen and stenographers at first class post offices.—There may also be employed at first class post offices foremen and stenographers at a salary of \$1,300 or more per annum. (Acts July 28, 1916, c. 261, § 1, 39 Stat. 416; March 3, 1917, c. 162, § 1, 39 Stat. 1062; Feb. 28, 1919, c. 69, § 1; April 24, 1920, c. 161, § 1.)

Note.—See § 6569.

§ 6584. Compensation for work on Sunday and over-time.—Hereafter when the needs of the service require the employment on Sundays or holidays of foremen, special clerks, clerks, carriers, watchmen, messengers, or laborers at first and second class post offices, or of railway postal clerks at terminal railway post offices and transfer offices, they shall be allowed compensatory time within six days next succeeding the Sunday and within thirty days next succeeding the holiday on which service is performed, and that portion of the Act approved July 2, 1918, authorizing the payment for over-time in lieu of compensatory time is hereby repealed. (Act June 5, 1920, c. 254.)

§§ 6585-6589. See § 6584.

§ 6589a. What days deemed holidays in postal service.—Hereafter all days, other than the holidays enumerated in the Act of July 28, 1916, making appropriations for the Postal Service for the fiscal year ending June 30, 1917, set aside by the President of the United States as holidays to be observed by the other departments of the Government throughout the United

States shall be construed as applicable to the Postal Service in the same manner and to the same extent as the executive departments. (Act Feb. 28, 1919, c. 69, § 1.)

Note.—The statute so referred to is § 6587.

§ 6593. Leaves of absence for employees.—Employees in the Postal Service shall be granted fifteen days' leave of absence with pay, exclusive of Sundays and holidays, each fiscal year, and sick leave with pay at the rate of ten days a year to be cumulative for a period of three years, but no sick leave with pay in excess of thirty days shall be granted during any three consecutive years. Sick leave shall be granted only upon satisfactory evidence of illness and if more than two days the application therefor shall be accompanied by a physician's certificate.

The fifteen days' leave shall be credited at the rate of one and one-quarter days for each month of actual service.

Whenever an employee herein provided for shall have been reduced in salary for any cause, he may be restored to his former grade or advanced to an intermediate grade at the beginning of any quarter following the reduction, and a restoration to a former grade or advancement to an intermediate grade shall not be construed as a promotion within the meaning of the law prohibiting advancement of more than one grade within one year. (Acts Oct. 1, 1890, c. 1260, 26 Stat. 648; May 27, 1908, c. 206, 35 Stat. 413; Aug. 24, 1912, c. 389, 37 Stat. 546; June 5, 1920, c. 254.)

§ 6394. See § 6593.

§ 6595. Superseded by § 6593.

§ 6612. Cancelling machines and equipages for city delivery and collection service.

Note.—Act Feb. 28, 1919, c. 69, § 1, making appropriations for these purposes, provides that the Postmaster General may expend a part of the same in leasing quarters for automobiles and in the erection and equipment of a garage for such vehicles in the District of Columbia.

§ 6615. Sale of maps.—The Postmaster General may authorize the sale to the public of post-route maps and rural-delivery maps or blue prints at the cost of printing and 10 per cent. thereof added, the proceeds of such sale to be used as a further appropriation for the preparation and publication of post-route maps and rural-delivery maps or blue prints. (Acts July 28, 1916, c. 261, § 1, 39 Stat. 422; March 3, 1917, c. 162, § 1, 39 Stat. 1067; July 2, 1918, c. 117, § 1, 40 Stat.; Feb. 28, 1919, c. 69, § 1.)

§ 6624. Buildings leased for post office purposes.

Note.—The term of such leases is extended to twenty years, by Act April 24, 1920, c. 161, § 1, which also repealed the provision of this section that there shall not be allowed for the use of any third class post office for rent a sum in excess of \$500, nor more than \$100 for fuel and light, in any one year.

CHAPTER 2.

CARRIERS, BRANCH OFFICES, AND RECEIVING-BOXES.

§ 6635a. Branch offices and stations in Hawaii, Porto Rico and Virgin Islands.—That the Postmaster General is hereby directed to establish in the Islands of Hawaii, in Porto Rico and the Virgin Islands under appropriate regulations to be prescribed by him, such branch offices, nonaccounting offices, or stations of Honolulu, San Juan and Charlotte Amalie, respectively, as in his judgment may be necessary to improve the service and as may be required for the convenience of the public: Provided, however, That such branches, nonaccounting offices, and stations shall be conducted under the name of the existing post offices affected so as to maintain the identity of the offices concerned. Provided, That the Postmaster General be authorized to fix the salary of the postmaster at Honolulu at not to exceed \$4,000 per annum. (Act Oct. 28, 1919, c. 86, § 1.)

§ 6653. Record of length of rural route.—Hereafter the pay of rural carriers and substitute rural carriers, which depends upon the length of the route, shall be determined in accordance with the records of the Post Office

Department, which records shall be promptly corrected whenever the Postmaster General determines that such records are not correct. (Act April 24, 1920, c. 161, § 1.)

Note.—See § 6593.

§ 6654. Compensation of rural letter carriers.—The compensation of each rural carrier for serving a rural route of twenty-four miles, six days in the week, shall be \$1,800; on routes twenty-two miles and less than twenty-four miles, \$1,728; on routes twenty miles and less than twenty-two miles, \$1,620; on routes eighteen miles and less than twenty miles, \$1,440; on routes sixteen miles and less than eighteen miles, \$1,260; on routes fourteen miles and less than sixteen miles, \$1,080; on routes twelve miles and less than fourteen miles, \$1,008; on routes ten miles and less than twelve miles, \$864; on routes eight miles and less than ten miles, \$864; on routes six miles and less than eight miles, \$792; on routes four miles and less than six miles, \$720. A rural letter carrier serving one triweekly route shall be paid on the basis for a route one-half the length of the route served by him, and a carrier serving two triweekly routes shall be paid on the basis for a route one-half of the combined length of the two routes. Each rural carrier assigned to a horse-drawn vehicle route on which daily service is performed shall receive \$30 per mile per annum for each mile said route is in excess of twenty-four miles or major fraction thereof, based on actual mileage, and each rural carrier assigned to a horse-drawn vehicle route on which triweekly service is performed shall receive \$15 per mile for each mile said route is in excess of twenty-four miles or major fraction thereof, based on actual mileage.

Deductions for failure to perform service on a standard rural delivery route for twenty-four miles and less shall not exceed the rate of pay per mile for service for twenty-four miles and less; and deductions for failure to perform service on mileage in excess of twenty-four miles shall not exceed the rate of compensation allowed for such excess mileage.

The pay of a carrier who furnishes and maintains his own motor vehicle and who serves a route not less than fifty miles in length be at not exceeding \$2,600 per annum.

The pay of carriers in the village delivery service, under such rules and regulations as the Postmaster General may prescribe, shall be from \$1,000 to \$1,200 per annum. (Res. March 4, 1915, No. 15, 38 Stat. 1227; Acts July 2, 1918, c. 117, §§ 1, 2; Feb. 28, 1919, c. 69, §§ 1, 2; Nov. 7, 1919, c. 99, §§ 1-4; June 5, 1920, c. 254.)

§ 6657. Lake Winnepesaukee carrier.

Note.—Act Feb. 28, 1919, c. 69, § 1, provides that such carrier from Laconia, New Hampshire, who furnishes his own equipment, shall receive a compensation of \$1,800 per annum.

§ 6659a. Experimental operation of motor vehicle truck routes, and country motor express routes.—To promote the conservation of food products and to facilitate the collection and delivery thereof from producer to consumer and the delivery to producers of articles necessary in the production of such food products, the Postmaster General is hereby authorized to conduct experiments in the operation of motor vehicle truck routes, to be selected by him. The Postmaster General is further authorized to conduct experiments in the operation of country motor express routes, which shall be primarily operated as a means of expediting the transportation of fourth-class mail between producing and consuming localities and shall not displace or supplant any existing methods of mail transportation or delivery. These two classes of experiments shall be conducted under such rules and regulations, including modifications in rates of postage and in packing and wrapping requirements as the Postmaster General may prescribe, and to defray the cost thereof the sum of \$300,000 is hereby appropriated: Provided, That mail other than that of the fourth class shall not be dispatched on experimental motor vehicle truck routes or on experimental country motor express routes unless the same can be expedited thereby in delivery at destination: Provided further, That separate accounts shall be kept of the amount of all the mail of all classes carried on such routes. The Postmaster General shall report to Congress the result of such experiments at the beginning of the next regular session. (Act Feb. 28, 1919, c. 69, § 1.)

CHAPTER 3.

MAIL MATTER.

§ 6702a. Indemnity claims on insured and collect-on-delivery mail.—Hereafter the Postmaster General may, under such rules and regulations as he shall prescribe, authorize postmasters to pay limited indemnity claims on insured and collect-on-delivery mail. (Act April 24, 1920, c. 161, § 1.)

§ 6703a. Receipt for special-delivery mail.—The Postmaster General may, under such rules and regulations as he shall prescribe, deliver special-delivery matter without obtaining a receipt therefor. (Act April 24, 1920, c. 161, § 1.)

CHAPTER 4.

POSTAGE.

§ 6711a. Prepayment on first-class matter without affixing stamps.—The Postmaster General, under such regulations as he may prescribe for the collection of such postage, is hereby authorized to accept for delivery and deliver, without postage stamps affixed thereto, mail matter of the first class on which the postage has been fully prepaid at the rate provided by law. (Act April 24, 1920, c. 161, § 5.)

§ 6734. Free transmission of census mail; private use of envelopes.—All mail matter, of whatever class or weight, relating to the census and addressed to the Census Office, or to any official thereof, and indorsed "Official business, Census Office," shall be transmitted free of postage, and by registered mail if necessary, and so marked: Provided, That if any person shall make use of such indorsement to avoid the payment of postage or registry fee on his or her private letter, package, or other matter in the mail, the person so offending shall be guilty of a misdemeanor and subject to a fine of \$300, to be prosecuted in any court of competent jurisdiction. (Acts July 2, 1909, c. 2, § 29, 36 Stat. 10; March 3, 1919, c. 97, § 29.)

CHAPTER 7.

UNCLAIMED MATTER AND REQUEST LETTERS.

§ 6776. Return of undelivered letters.—The Postmaster General may regulate the period during which undelivered letters shall remain in any post office and when they shall be returned to the dead-letter office; and he may make regulations for their return from the dead-letter office to the writers when they can not be delivered to the parties addressed: Provided, That when letters are returned from the dead-letter office to the writers, a fee of 3 cents shall be collected at the time of delivery, under such rules and regulations as the Postmaster General may prescribe. (R. S. § 3936; Acts July 8, 1872, c. 335, § 194, 17 Stat. 308; April 24, 1920, c. 161, § 4.)

§ 6781a. Forwarding or return of second, third and fourth class matter.—Hereafter, under such regulations as the Postmaster General may prescribe, fourth-class matter of obvious value which is of perishable nature may be forwarded to the addressee at another post office charged with the amount of the forwarding postage, and when such matter of a perishable nature is undeliverable to the addressee it may be returned to the sender charged with the return postage: Provided, That other undeliverable matter of the second, third, and fourth classes may be forwarded to the addressee or to such other person as the sender may direct, at another post office, charged with the amount of the forwarding postage, or it may be returned to the sender charged with the return postage, when it bears the sender's pledge that the postage for forwarding and return will be paid, such postage to be collected on delivery: Provided further, That when the sender refuses to furnish such postage in accordance with his pledge, the acceptance from him of further matter bearing such pledge may be refused. (Act Nov. 19, 1919, c. 119, § 1.)

CHAPTER 8.

CONTRACTS FOR CARRYING MAILS.

§ 6790a. Emergency mail service in Alaska.—For inland transportation by star routes in Alaska, \$255,000: Provided, That out of this appropriation the Postmaster General is authorized to provide for difficult or emergency mail service in Alaska, including the establishment and equipment of relay stations, in such manner as he may think advisable, without advertising therefor. (Act Feb. 28, 1919, c. 69, § 1.)

§ 6814. Aeroplane mail service.—The Postmaster General is authorized to expend not exceeding \$850,500 for the purchase of aeroplanes and the operation and maintenance of aeroplane mail service between such points, including service to and between points in Alaska, as he may determine. The Postmaster General in expending this appropriation shall purchase, as far as practicable, such available and suitable equipment and supplies for the aeroplane mail service as may be owned by or under construction for the War Department or the Navy Department when no longer required because of the cessation of war activities, and it shall be his duty to first ascertain if such articles of the character described may be secured from the War Department or the Navy Department before purchasing such equipment or supplies elsewhere. If such equipment or supplies, other than emergency supplies, are purchased elsewhere than from the War Department or the Navy Department, the Postmaster General shall report such action to Congress, together with the reasons for such purchases. All articles purchased from either of said departments shall be paid for at a reasonable price considering wear and tear and general condition. Said departments are authorized to sell such equipment and supplies to the Post Office Department under the conditions specified, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts: Provided further, That the Secretary of War and the Secretary of the Navy are hereby authorized and directed to deliver immediately to the Postmaster General, as he may request, and as hereinbefore provided, such aeroplane machines, supplies, equipment, and parts as may be serviceable and available for the aeroplane mail service, the same to be out of any equipment that the War Department or the Navy Department has on hand or under construction, the War Department and the Navy Department appropriations to be credited with the equipment turned over to the Post Office Department: And provided further, That separate accounts be kept of the amount expended for aeroplane mail service. (Acts March 3, 1917, c. 162, § 1, 39 Stat. 1064; July 2, 1918, c. 117, § 1, 40 Stat.; Feb. 28, 1919, c. 69, § 1.)

§ 6814a. Contracts for carriage of mail by aeroplane.—The Postmaster General may contract with any individual, firm, or corporation for an aeroplane mail service between such points as he may deem advisable and designate, in case such service is furnished at a cost not greater than the cost of the same service by rail, and shall pay therefor out of the appropriation for inland transportation by railroad routes. (Act April 24, 1920, c. 161, § 1.)

Note.—Act June 5, 1920, c. 253, provides that the "Postmaster General is authorized to sell under such rules and regulations as he may prescribe any airplanes, parts thereof, field equipment, tools and other aviation material which have become unsuitable in the postal service or which will deteriorate and become unsuitable before it can be used. The proceeds of such sales shall be covered into the Treasury as "Miscellaneous receipts."

§ 6814b. Use in postal service of war-time aeroplanes and motor vehicles.—The Secretary of War is authorized hereafter, in his discretion, to deliver and turn over to the Postmaster General, without charge therefor, from time to time, such motor vehicles, aeroplanes, and parts thereof, and machinery and tools to repair and maintain the same, as may be suitable for use in the Postal Service; and the Postmaster General is authorized to use the same in the transportation of the mails and to pay the necessary expenses thereof, including the replacement, maintenance, exchange, and repair of such equipment, out of any appropriation available for the service in which such vehicles or aeroplanes are used. (Act April 24, 1920, c. 161, § 3.)

§ 6815. Carriage of mail by electric and cable cars.—For inland transportation of mail by electric and cable cars, \$545,000: Provided, That the rate of compensation to be paid per mile shall not exceed the rate now paid to companies performing such service, except that the Postmaster General, in cases where the quantity of mail is large and the number of exchange points numerous, may, in his discretion, authorize payment for closed-pouch service at a rate per mile not to exceed one-third above the rate per mile now paid for closed-pouch service; and for mail cars and apartments carrying the mails, not to exceed the rate of 1 cent per linear foot per car-mile of travel: Provided further, That the rates for electric car service on routes over twenty miles in length outside of cities shall not exceed the rates paid for service on steam railroads: Provided, however, That not to exceed \$25,000 of the sum hereby appropriated may be expended, in the discretion of the Postmaster General, where unusual conditions exist or where such service will be more expeditious and efficient and at no greater cost than otherwise. (Acts March 3, 1917, c. 162, § 1, 39 Stat. 1066; July 2, 1918, c. 117, § 1, 40 Stat.; Feb. 28, 1919, c. 69, § 1; April 24, 1920, c. 161, § 1.)

Note.—See same section in Barnes' Federal Code for a further provision in the prior statute, not reenacted in the Act of 1919 cited, concerning the fixing of rates of carriers by the Interstate Commerce Commission.

§ 6815a. Commission on carriage and handling of mail; loan of tractors to states.—(a) A commission is hereby created to be composed of the chairman and four members of the Committee on Post Offices and Post Roads of the Senate, appointed by the President of the Senate, the chairman and four members of the Committee on the Post Office and Post Roads of the House of Representatives, appointed by the Speaker of the House, and a postal expert appointed by the Postmaster General. Such commission shall, by majority vote, appoint seven persons who are experienced in business or commercial transaction, or represent business or commercial organizations which make extensive use of the Postal Service, to act as an advisory council and to aid such commission in its work. Vacancies occurring in the commission or in such advisory council shall be filled in the same manner as the original appointments. No member of such advisory council shall receive any compensation for his services. The commission may employ and fix the compensation of such engineers, special experts, clerks, and other employees as it may deem necessary: Provided, That each executive department and independent establishment of the Government is hereby directed to furnish to the commission such engineers, special experts, clerks, and other employees as the commission may require, whenever, in the opinion of the head of such department or independent establishment, the public business thereof will not be materially affected thereby.

(b) The expenses of the commission and of the advisory council, including all necessary traveling expenses incurred by a member of the commission, a member of the advisory council, an engineer, special expert, clerk, or employee, under orders of the commission, in making any investigation or upon official business in other places than the place of his residence, shall be allowed and paid upon the presentation of itemized vouchers therefor, approved by the chairman of the commission, which approval shall be conclusive upon the accounting officers of the Treasury Department.

(c) The commission shall investigate all present and prospective methods and systems of handling, dispatching, transporting, and delivering the mails and the facilities therefor; and especially all methods and systems which relate to the handling, delivery and dispatching of the mails in the large cities of the United States.

On or before March 1, 1921, the commission shall make a report to Congress containing a summary of its findings and such recommendations for legislation as it may believe to be proper.

(d) For the purposes of this section, the commission shall have power to summon and compel the attendance of witnesses and the production of documentary evidence, and to administer oaths.

(e) The executive departments and independent establishments of the Government, when directed by the President, shall furnish the commission, on its request, all records, papers and information in their possession relating to any subject of investigation by the commission.

(f) The sum of \$10,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be available immediately and until July 1, 1920; and the unexpended balance on June 30, 1920, of any appropriation for the service of the Post Office Department for the fiscal year ending June 30, 1920, or so much thereof as may be necessary, is hereby appropriated, to be available after June 30, 1920, for the purposes of this section.

The Secretary of War be, and he is hereby, authorized and empowered, at his discretion, and under such rules and regulations as he may prescribe, to loan to any State of the Union, when so requested by the highway department of the State, such tractors as are retained and not distributed under the Act approved March 15, 1920, for use in highway construction by the highway department of such State: Provided, That all expenses for repairs and upkeep of tractors so loaned and the expenses of loading and freight shall be paid by the State, both in transfer to the State and the return to the Army.

If the revenues of the Post Office Department shall be insufficient to meet the appropriations made by this Act, a sum equal to such deficiency of the revenue of said department is hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply said deficiencies in the revenues for the Post Office Department for the year ending June 30, 1921, and the sum needed may be advanced to the Post Office Department upon requisition of the Postmaster General. (Act April 24, 1920, c. 161, §§ 6-8.)

CHAPTER 9.

CARRYING THE MAIL.

§ 6819. Definition of terms.

Note.—Act Feb. 28, 1919, c. 69, § 5, provides that the term "rural post roads," as used in this section, "shall be construed to mean any public road a major portion of which is now used, or can be used, for the transportation of the United States mails, excluding every street and road in a place having a population, as shown by the latest available Federal census, of two thousand five hundred or more, except that portion of any such street or road along which the houses average more than two hundred feet apart."

§ 6820a. Additional appropriations and expenditures.—For the purpose of carrying out the provisions of said Act—Act July 11, 1916, c. 241, (§§ 6818-6824)—as herein amended, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the following additional sums: The sum of \$50,000,000 for the fiscal year ending June 30, 1919, and available immediately; the sum of \$75,000,000 for the fiscal year ending June 30, 1920; and the sum of \$75,000,000 for the fiscal year ending June 30, 1921; said additional sums to be expended in accordance with the provisions of said Act: Provided, That where the constitution of any State prohibits the same from engaging upon internal improvements or from contracting public debts for extraordinary purposes in an amount sufficient to meet the monetary requirements of the Act of July 11, 1916, or any Act amendatory thereof, or restricts annual tax levies for the purpose of constructing and improving roads and bridges, and where a constitutional alteration or amendment to overcome either or all of such prohibitions must be submitted to a referendum at a general election, the sum to which such State is entitled under the method of apportionment provided in the Act of July 11, 1916, or any Act amendatory thereof, shall be withdrawn by the Secretary of the Treasury from the principal fund appropriated by the Act of July 11, 1916, or any Act amendatory thereof, upon receipt of the certification of the governor of such State to the existence of either or all of said prohibitions, and such sum shall be carried by the Secretary of the Treasury as a separate fund for future disbursement as hereinafter provided: Provided further, That when, by referendum, the constitutional alterations or amendments necessary to the enjoyment of the sum so withdrawn have been approved and ratified by any State, the Secretary of the Treasury, upon receipt of certification from the governor of such State to such effect, shall immediately make available to such State, for the purposes set forth in the Act of July 11, 1916, or any Act amendatory thereof, the sum withdrawn as hereinbefore provided: Provided further, That nothing herein shall be deemed to prevent any State from receiving such portion of said principal

sum as is available under its existing constitution and laws: Provided further, That in the expenditure of this fund for labor preference shall be given, other conditions being equal, to honorably discharged soldiers, sailors, and marines, but any other preference or discrimination among citizens of the United States in connection with the expenditure of this appropriation is hereby declared to be unlawful. (Act Feb. 28, 1919, c. 69, § 6.)

§ 6821. Project statement; construction of road.

Note.—Act Feb. 28, 1919, c. 69, § 5, provides that this section is "amended so that the limitation of payments not to exceed \$10,000 per mile, exclusive of the cost of bridges of more than twenty feet clear span, which the Secretary of Agriculture may make, be, and the same is, increased to \$20,000 per mile."

§ 6824a. Distribution of war materials and equipment for improvement of highways.—The Secretary of War be, and he is hereby, authorized in his discretion to transfer to the Secretary of Agriculture all available war material, equipment, and supplies not needed for the purposes of the War Department, but suitable for use in the improvement of highways, and that the same be distributed among the highway departments of the several States to be used on roads constructed in whole or in part by Federal aid, such distribution to be made upon a value basis of distribution the same as provided by the Federal aid road Act, approved July 11, 1916: Provided, That the Secretary of Agriculture, at his discretion, may reserve from such distribution not to exceed 10 per centum of such material, equipment, and supplies for use in the construction of national forest roads or other roads constructed under his direct supervision. (Act Feb. 28, 1919, c. 69, § 7.)

Note.—See §§ 6815a, 6824aa.

§ 6824aa. Transfer and distribution of additional material and equipment under preceding section.—The Secretary of War be, and he is hereby, authorized and directed to transfer such motor-propelled vehicles and motor equipment, including spare parts, pertaining to the Military Establishment as are or may hereafter be found to be surplus and no longer required for military purposes, to (a) the Department of Agriculture, for use in the improvement of highways and roads under the provisions of section 7 of the Act approved February 28, 1919, entitled "An Act making appropriations for the service of the Post Office Department, for the fiscal year 1920, and for other purposes": Provided, however, That no more motor-propelled vehicles, motor equipment, and other war material, equipment, and supplies, the transfer of which is authorized in this Act, shall be transferred to the Department of Agriculture for the purposes named in section 7 of said Act than said Department of Agriculture shall certify can be efficiently used for such purposes within a reasonable time after such transfer; (b) the Post Office Department for use in the transmission of mails; and (c) the Treasury Department, for the use of the Public Health Service under the provisions of section 3 of the Act approved March 3, 1919, entitled "An Act to authorize the Secretary of the Treasury to provide hospital and sanatorium facilities for discharged sick and disabled soldiers, sailors and marines.

The Secretary of War is hereby authorized and directed to transfer to the Department of Agriculture, under the provisions of section 7 of the Act approved February 28, 1919, entitled "An Act making appropriations for the service of the Post Office Department for the fiscal year 1920, and for other purposes," for use in the improvement of highways and roads, as therein provided, the following war material, equipment, and supplies pertaining to the Military Establishment as are or may hereafter be found to be surplus and not required for military purposes, to wit, road rollers, graders, and oilers; sprinkling wagons; concrete mixers; derricks, pile-driver outfits complete; air and steam drill outfits; centrifugal and diaphragm pumps with power; rock crushers; clamshell and orange-peel buckets; road scarifiers; caterpillar and drag-line excavators; plows; cranes; trailers; rubber and steam hose; asphalt plants; steam shovels; dump wagons; hoisting engines; air-compressor outfits with power; boilers; drag, Fresno, and wheel scrapers; stump pullers; wheelbarrows; screening plants; wagon loaders; blasting machines; hoisting cable; air hose; corrugated-metal culverts; explosives and exploders; engineers' transits, levels,

tapes, and similar supplies and equipment; drafting machines; planimeters; fabricated bridge materials; industrial railway equipment; conveyors, gravity and power; donkey engines; corrugated-metal roofing; steel and iron pipe; wagons and similar equipment and supplies such as are used directly for road-building purposes.

The Secretary of War is also hereby authorized and directed to transfer to the Department of Agriculture, for the use of the Forest Service, such telephone supplies pertaining to the Military Establishment which have been found to be surplus and no longer required for military purposes and are needed for the present use of the said service.

Freight charges incurred in the transfer of the property provided for in this Act shall not be defrayed by the War Department, and if the War Department shall load any of said property for shipment the expense of said loading shall be reimbursed the War Department by the department to which the property is transferred by an adjustment of the appropriations of the two departments: Provided, however, That any State receiving any of said property for use in the improvement of public highways shall, as to the property it receives, pay to the Department of Agriculture the amount of 20 per centum of the estimated value of said property, as fixed by the Secretary of Agriculture or under his direction, against which sum the said State may set off all freight charges paid by it on the shipment of said property, not to exceed, however, said 20 per centum.

The title to said vehicles and equipment shall be and remain vested in the State for use in the improvement of the public highways, and no such vehicles and equipment in serviceable condition shall be sold or the title to the same transferred to any individual, company, or corporation: Provided, That any State highway department to which is assigned motor-propelled vehicles and other equipment and supplies, transferred herein to the Department of Agriculture, may, in its discretion, arrange for the use of such vehicles and equipment, for the purpose of constructing or maintaining public highways, with any State agency or municipal corporation at a fair rental which shall not be less than the cost of maintenance and repair of said vehicles and equipment.

The provisions of the Act of July 16, 1914 (Thirty-eighth Statutes, page 454), prohibiting the expenditure of appropriations by any of the executive departments or other Government establishments for the maintenance, repair, or operation of motor-propelled or horse-drawn passenger-carrying vehicles in the absence of specific statutory authority, shall not apply to vehicles transferred, or hereafter to be transferred, by the Secretary of War to the Department of Agriculture for the use of the Department under the provisions of this Act, or under the provisions of section 7 of the Act of February 28, 1919, referred to in section 1 hereof: Provided, however, That nothing in this Act contained shall be held or construed to modify, amend, or repeal the provisions of the last proviso under the item entitled "Contingencies of the Army," as contained in the Act entitled "An Act making appropriations for the support of the Army for the fiscal year ending June 30, 1920, and for other purposes," approved July 11, 1919, except as to direction for the transfer of those articles enumerated in section 2 hereof. (Act March 15, 1920, c. 100, §§ 1-6.)

§ 6824b. Roads and trails within national forests.—There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1919, the sum of \$3,000,000, for the fiscal year ending June 30, 1920, the sum of \$3,000,000, and for the fiscal year ending June 30, 1921, the sum of \$3,000,000, available until expended by the Secretary of Agriculture in cooperation with the proper officials of the State, Territory, insular possession, or county, in the survey, construction, and maintenance of roads and trails within or partly within the national forests, when necessary for the use and development of resources of the same or desirable for the proper administration, protection, and improvement of any such forest. Out of the sums so appropriated the Secretary of Agriculture may, without the cooperation of such officials, survey, construct, and maintain any road or trail within a national forest which he finds necessary for the proper administration, protection, and improvement of such forest, or which in his opinion is of national importance. In the expenditure of this fund for labor preference shall be given, other conditions

being equal, to honorably discharged soldiers, sailors, and marines. The Secretary of Agriculture shall make annual report to Congress of the amounts expended hereunder. (Act Feb. 28, 1919, c. 69, § 8.)

§ 6824c. Work on roads by soldiers, sailors, and marines.—No officer or enlisted man of the Army, Navy, or Marine Corps shall be detailed for work on the roads which come within the provisions of this Act except by his own consent: And provided further, That the Secretary of Agriculture through the War Department shall ascertain the number of days any such soldiers, sailors, and marines have worked on the public roads in the several States (other than roads within the limits of cantonments or military reservations in the several States) during the existing war and also the location where they worked and their names and rank, and report to Congress at the beginning of its next regular session: Provided further, That when any officer or enlisted man in the Army, the Navy, or the Marine Corps shall have been or may be in the future detailed for labor in the building of roads or other highway construction or repair work (other than roads within the limits of cantonments or military reservations in the several States), during the existing war, the pay of such officer or enlisted man shall be equalized to conform to the compensation paid to civilian employees in the same or like employment and the amount found to be due such officers, soldiers, sailors, and marines, less the amount of his pay as such officer, soldier, sailor, or marine, shall be paid to him from the 1920 appropriation herein allotted to the States wherein such highway construction or repair work was or will be performed. (Act Feb. 28, 1919, c. 69, § 9.)

§ 6824d. Moneys and advancements to supply deficiencies in revenues for improvements of highways.—If the revenues of the Post Office Department shall be insufficient to meet the appropriations made by this Act, a sum equal to such deficiency of the revenue of said department is hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply said deficiencies in the revenues for the Post Office Department for the year ending June 30, 1920, and the sum needed may be advanced to the Post Office Department upon requisition of the Postmaster General. (Act Feb. 28, 1919, c. 69, § 10.)

CHAPTER 10.

RAILWAY SERVICE.

§ 6869. Leases for terminal post offices.—That hereafter the Postmaster General may, in the disbursement of the appropriation for such purposes, apply a part thereof to the purpose of leasing premises for the use of terminal railway post offices at a reasonable annual rental, to be paid quarterly, for a term not exceeding twenty years. (Acts March 9, 1914, c. 33, 38 Stat. 391; April 24, 1920, c. 161, § 1.)

§ 6874. Compensation of assistant superintendents.

Note.—Act Feb. 28, 1919, c. 69, § 1, making appropriations for the railway mail service, contains the following item: "For per diem allowance of two assistant superintendents while actually traveling on official business away from their home, their official domicile, and their headquarters, at a rate to be fixed by the Postmaster General, not to exceed \$4 per day, and for their necessary official expenses not covered by their per diem allowance not exceeding \$700." This paragraph is repeated in Act April 24, 1920, c. 161, § 1.

§ 6874a. Salaries of officials of Railway Mail Service.—The annual salaries of officials of the Railway Mail Service shall be graded in even hundreds of dollars, as follows: Division superintendents at \$4,200; assistant division superintendents at \$3,200; assistant superintendents at \$3,100; assistant superintendent in charge of car construction at \$3,000; chief clerks at \$3,000; assistant chief clerks at \$2,500: Provided, That the clerks in charge of sections in the offices of the division superintendents shall be rated as assistant chief clerks at \$2,500 salary, and the chief clerk in charge of car construction shall be designated as an assistant superintendent at \$3,000 salary per annum.

The salary of requisition fillers and packers in the division of equipment and supplies shall be as follows: One foreman, \$1,800 per annum; ten requisition fillers and nine packers, each, \$1,600 per annum. (Act June 5, 1920, c. 254.)

§ 6875. Railway postal clerks.—That railway postal clerks shall be divided into two classes, Class A and Class B, and into six grades as follows: Grade one—salary, \$1,600; grade two—salary, \$1,700; grade three—salary, \$1,850; grade four—salary, \$2,000; grade five—salary, \$2,150; grade six—salary, \$2,300; and laborers in the Railway Mail Service shall be divided into two grades, as follows: Grade one—salary, \$1,350; grade two—salary \$1,450.

For the purpose of organization and establishing maximum grades to which promotions may be made successively, as herein provided, runs now in Class A and all terminal railway post offices and transfer offices shall be placed in Class A, and the remainder in Class B.

Road clerks shall be promoted successively to grade three for clerks, and to grade four for clerks in charge of Class A, and to grade five for clerks and to grade six for clerks in charge of Class B.

Terminal railway post office and transfer clerks shall be promoted successively to grade three for clerks of whom general scheme distribution is not required, and to grade four for clerks of whom general scheme distribution is required, and for clerks in charge to grade five in terminals or tours or crews in terminals consisting of not more than nineteen clerks or in transfer offices or tours in transfer offices of not more than four clerks, and to grade six in terminals or tours or crews in terminals consisting of twenty or more clerks and in transfer offices or tours in transfer offices of five or more clerks.

A clerk in charge is defined as a clerk in charge of a railway post office, terminal railway post office, or transfer office whether he performs service alone or has a crew of clerks under his supervision, or of a tour or a crew within a tour of a terminal railway post office or transfer office.

All clerks assigned to the office of division superintendents or chief clerks' offices shall be promoted successively to grade three, and in the office of division superintendent four clerks may be promoted one grade per annum to grade four, four clerks to grade five, and four clerks to grade six, and in the office of chief clerks one clerk may be promoted one grade per annum to grade four, one clerk to grade five, and one clerk to grade six.

Examiners shall be promoted successively to grade five and assistant examiners to grade four whether assigned to the office of division superintendents or chief clerks offices.

Laborers shall be promoted to grade two after one year's satisfactory service in grade one.

Promotions shall be made successively at the beginning of the quarter following a year's satisfactory service in the next lower grade.

In the readjustment of the service to conform to the grades herein provided, grade one shall include clerks in present grade one, grade two shall include clerks in present grades two and three, grade three shall include clerks in present grades four and five, grade four shall include clerks in present grades six and seven, grade five shall include clerks in present grades eight and nine, and grade six shall include clerks in present grade ten.

Substitute railway postal clerks shall be paid the salary of grade one for service actually performed during the first calendar year of service, which shall constitute his probationary period, when, if his services are satisfactory, unless sooner appointed a regular clerk, he shall be promoted to grade two and paid the salary of that grade for service actually performed until appointed a regular clerk.

Service of clerks shall be based on an average of not exceeding eight hours daily for three hundred and six days per annum, including proper allowance for all service required on lay-off periods. Clerks required to perform service in excess of eight hours daily, as herein provided, shall be paid in cash at the annual rate of pay or granted compensatory time at their option for such over-time.

Substitute railway postal clerks shall be credited with full time while traveling under orders of the department to and from their designated head-

quarters to take up an assignment, together with actual and necessary travel expenses, not to exceed \$2 per day, while on duty away from such headquarters. When a substitute clerk performs service in a railway post office starting from his official headquarters he shall be allowed travel expenses under the law applying to clerks regularly assigned to the run. (Acts Aug. 24, 1912, c. 389, § 7, 37 Stat. 555; July 28, 1916, c. 261, § 1, 39 Stat. 419; March 3, 1917, c. 162, § 1, 39 Stat. 1065; July 2, 1918, c. 117, § 2; Feb. 28, 1919, c. 69, § 2; June 5, 1920, c. 254.)

Note.—Acts Feb. 28, 1919, c. 69, § 1, and April 24, 1920, c. 161, § 1, making appropriation for the railway mail service, provides that "the appointment and assignment of clerks hereunder shall be so made during the fiscal year as not to involve a greater aggregate expenditure than this sum; and, to enable the Postmaster General to reclassify the salaries of railway postal clerks and make necessary appointments and promotions, he may exceed the number of clerks in such of the grades as may be necessary: Provided, That the number of regular clerks in the aggregate as herein authorized be not exceeded."

§ 6878. Travel allowances for railway postal clerks on leave.—Hereafter, in addition to the salaries provided by law, the Postmaster General is hereby authorized to make travel allowances in lieu of actual expenses, at fixed rates per annum, not exceeding in the aggregate the sum annually appropriated, to railway postal clerks, acting railway postal clerks, and substitute railway postal clerks, including substitute railway postal clerks for railway postal clerks granted leave with pay on account of sickness, assigned to duty in railway post office cars, while on duty, after ten hours from the time of beginning their initial run, under such regulations as he may prescribe, and in no case shall such an allowance exceed \$2 per day. (Acts Aug. 24, 1912, c. 389, § 1, 39 Stat. 548; March 3, 1917, c. 162, § 1, 39 Stat. 1065; Feb. 28, 1919, c. 69, § 1.)

Note.—See § 6875.

§ 6881. Time allowed clerks while deadheading.—Railway and substitute railway postal clerks shall be credited with full time when deadheading under orders of the department. (Acts July 28, 1916, § 1, 39 Stat. 419; March 3, 1917, c. 162, § 1, 39 Stat. 1065; July 2, 1918, c. 117, § 1, 40 Stat.; Feb. 28, 1919, c. 69, § 1; April 24, 1920, c. 161, § 1.)

CHAPTER 12.

POST OFFICE INSPECTORS.

§ 6908. Employment and salary of inspectors.—The Postmaster General may employ two post-office inspectors for the Pacific coast, and such number of other post office inspectors as the good of the service and the safety of the mail may require. (R. S. § 4017; Acts June 8, 1872, c. 335, §§ 31, 32, 17 Stat. 289; June 11, 1880, c. 206, § 1, 21 Stat. 177; June 5, 1920, c. 254.)

§ 6909. Salary and expenses of inspectors.—Post-office inspectors shall be divided into seven grades, as follows: Grade one—salary, \$2,300; grade two—salary, \$2,500; grade three—salary, \$2,700; grade four—salary, \$2,900; grade five—salary, \$3,200; grade six—salary, \$3,500; grade seven—salary, \$3,700; and there shall be fifteen inspectors in charge at \$4,200. Inspectors shall be promoted successively to grade five at the beginning of the quarter following a year's satisfactory and efficient service in the next lower grade, and to grade six at the beginning of the quarter following the expiration of one year's meritorious service in grade five, and not to exceed 20 per centum of the force to grade seven for specially meritorious service after not less than one year's service in grade six. The three grades of inspectors without per diem allowance and the three senior grades of field inspectors shall be considered on a parity in readjusting the inspectors to the grades provided. Inspectors shall be paid their actual expenses not to exceed \$5 per day while engaged on official business away from their homes and official domiciles. The appropriation for per diem allowance authorized for the fiscal year beginning July 1, 1920, may be utilized for such expenses. (R. S. § 4017; Acts June 8, 1872, c. 335, §§ 31, 32, 17 Stat. 289; June 17, 1878, c. 259, § 1, 20 Stat. 140; June 11, 1880, c. 206, § 1, 21 Stat. 177; Feb. 28, 1919, c. 69, § 1; April 24, 1920, c. 161, § 1; June 5, 1920, c. 254.)

Note.—See this section in Barnes' Federal Code.

§ 6913a. Clerks at division headquarters of inspectors.—Clerks at division headquarters of post-office inspectors shall be divided into six grades, as follows: Grade one—salary, \$1,600; grade two—salary, \$1,700; grade three—salary, \$1,850; grade four—salary, \$2,000; grade five—salary, \$2,150; grade six—salary, \$2,300; and there shall be one chief clerk at each division headquarters at a salary of \$2,600. That clerks at division headquarters shall be promoted successively to grade five at the beginning of the quarter following a year's satisfactory service in the next lower grade, and one clerk at each division headquarters may be promoted to grade six after one year's satisfactory service in grade five.

Hereafter when any clerk in the office of division headquarters in the post-office inspection service is absent from duty from any cause other than leave with pay allowed by law, the Postmaster General, under such regulations as he may prescribe, may authorize the employment of a substitute for such work, and payment therefor from the lapsed salary of such absent clerk at a rate not to exceed the pay of the grade of work performed by such substitute. (Act June 5, 1920, c. 254.)

TITLE XLIX.

FOREIGN RELATIONS.

§ 6988. Fees for passports; term of validity.—From and after the 1st day of July, 1920, there shall be collected and paid into the Treasury of the United States quarterly a fee of \$1 for executing each application for a passport and \$9 for each passport issued to a citizen or person owing allegiance to or entitled to the protection of the United States: Provided, That nothing herein contained shall be construed to limit the right of the Secretary of State by regulation to authorize the retention by State officials of the fee of \$1 for executing an application for a passport: And provided further, That no fee shall be collected for passports issued to officers or employees of the United States proceeding abroad in the discharge of their official duties, or to members of their immediate families, or to seamen, or to widows, children, parents, brothers, and sisters of American soldiers, sailors, or marines, buried abroad whose journey is undertaken for the purpose and with the intent of visiting the graves of such soldiers, sailors, or marines, which facts shall be made a part of the application for the passport.

From and after the 1st day of July, 1920, there shall be collected and paid into the Treasury of the United States quarterly a fee of \$1 for executing each application of an alien for a visé and \$9 for each visé of the passport of an alien: Provided, That no fee shall be collected from any officer of any foreign Government, or members of his immediate family, its armed forces, or of any State, district, or municipality thereof, traveling to or through the United States, or of any soldiers coming within the terms of the public resolution approved October 19, 1918 (Fortieth Statutes at Large, part 1, page 1014).

The validity of a passport or visé shall be limited to two years, unless the Secretary of State shall, by regulation limit the validity of such passport or visé to a shorter period.

Whenever the appropriate officer within the United States of any foreign country refuses to visé a passport issued by the United States, the Department of State is hereby authorized upon request in writing and the return of the unused passport within six months from the date of issue to refund to the person to whom the passport was issued the fees which have been paid to Federal officials, and the money for that purpose is hereby appropriated and directed to be paid upon the order of the Secretary of State. (Acts June 20, 1874, c. 328, § 1, 18 Stat. 90; June 4, 1920, c. 223, §§ 1-5.)

§ 7040a. Commissioner for United States court in China.—The judge of the United States court for China is authorized to appoint, as in the district courts of the United States and with similar powers and tenure of office,

a United States commissioner who shall be an attorney regularly admitted to practice before the said United States court for China and who, when appointed, shall be in addition ex officio judge of the consular court for the district of Shanghai, with all of the authority and jurisdiction now exercised by the vice consul acting by virtue of the Act of Congress of March 4, 1915 (Thirty-eighth United States Statutes at Large, part 1, third session, chapter 145, page 1122), which authority and jurisdiction are hereby transferred: Provided, That at the discretion of the judge of said court, he may appoint the clerk of the court to perform the duties of commissioner without additional compensation therefor. In the event that it is not practicable or desirable so to appoint the clerk to act as commissioner, the judge may, with approval of the Secretary of State, appoint some qualified attorney to act as commissioner who shall, if not an officer of the court, receive such compensation as may be fixed by the Secretary of State not exceeding \$5 for each day of service actually rendered. (Act June 4, 1920, c. 223, § 1.)

§ 7040b. Traveling expenses of judge and district attorney.—The judge of the said court and the district attorney shall, when the sessions of the court are held at other cities than Shanghai, receive in addition to their salaries their necessary actual expenses during such sessions, not to exceed \$8 per day each, and so much as may be necessary for said purposes during the fiscal year ending June 30, 1921, is hereby appropriated. (Acts March 4, 1919, c. 123; June 4, 1920, c. 223, § 1.)

Note.—See §§ 2704, 7040.

§ 7040c. Collection of inheritance taxes by clerk.—In probate and administration proceedings, there shall be collected by said clerk, before entering the order of final distribution, to be paid into the Treasury of the United States, the same inheritance taxes from time to time collected under the laws enacted by the Congress of the United States from the estates of decedents residing within the territorial jurisdiction of the United States. (Act June 4, 1920, c. 223, § 1.)

§ 7045. Pan American Union.—Any moneys received from the other American Republics for the support of the union shall be paid into the Treasury as a credit, in addition to the appropriation, and may be drawn therefrom upon requisitions of the chairman of the governing board of the union for the purpose of meeting the expenses of the union and of carrying out the orders of said governing board: And provided further, That the Public Printer be, and he is hereby, authorized to print an edition of the monthly bulletin not to exceed 6,000 copies per month, for distribution by the union during the fiscal year ending June 30, 1920. (Acts March 3, 1911, c. 208, 36 Stat. 1032; April 27, 1912, c. 96, 37 Stat. 100; Feb. 27, 1913, c. 85, 37 Stat. 693; June 30, 1914, c. 132, 38 Stat. 447; March 4, 1915, c. 145, 38 Stat. 1121; July 1, 1916, c. 208, 39 Stat. 257; March 3, 1917, c. 161, 39 Stat. 1052; March 4, 1919, c. 123.)

§ 7056a. Auditing accounts of Red Cross.—The American National Red Cross annually shall reimburse the War Department for auditing the accounts of the American National Red Cross, as required by Act approved February 27, 1917, and the sum so paid shall be covered into the Treasury of the United States as a miscellaneous receipt. (Act May 29, 1920, c. 214, § 1.)

§ 7059a. Commission on international law.—The unexpended balance of the appropriation of \$15,000 for the payment of compensation to and the necessary expenses of the representative or representatives of the United States on the International Commission of Jurists, organized under the convention signed at the Third International American Conference August 23, 1906, approved by the Senate February 3, 1908, and ratified by the President February 8, 1908, for the purpose of preparing drafts of codes of public and private international law; and for the payment of the quota of the United States of the expenses incident to the preparation of such drafts, including the compensation of experts under article 4 of the convention, made in the Act making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1915, is hereby made available for the fiscal year 1920. (Act March 4, 1919, c. 123.)

TITLE L.

REGULATION OF NAVIGATION.

CHAPTER 1.

REGISTRY AND RECORDING.

§ 7064. Repealed by Act June 5, 1920, c. 250, § 22 is § 7516 herein.

§ 7114. **Change of names of vessels.**—The Commissioner of Navigation shall, under the direction of the Secretary of Commerce, be empowered to change the names of vessels of the United States on application of the owner or owners of such vessels when in his judgment there shall be sufficient cause for so doing.

The Commissioner of Navigation, with the approval of the Secretary of Commerce, shall establish such rules and regulations and procure such evidence as to age, condition, where built, and pecuniary liability of the vessel as he may deem necessary to prevent injury to public or private interests; and when permission is granted by the Commissioner of Navigation, he shall cause the order for the change of name to be published at least in four issues in some daily or weekly paper at the place of documentation, and the cost of procuring evidence and advertising the change of name to be paid by the person or persons desiring such change of name.

For the privilege of securing such changes of name the following fees shall be paid by the owners of vessels to collectors of customs to be deposited in the Treasury by such collectors as navigation fees: For vessels ninety-nine gross tons and under, \$10; for vessels one hundred gross tons and up to and including four hundred and ninety-nine gross tons, \$25; for vessels five hundred gross tons and up to and including nine hundred and ninety-nine gross tons, \$50; for vessels one thousand gross tons and up to and including four thousand nine hundred and ninety-nine gross tons, \$75; for vessels five thousand gross tons and over, \$100. (Acts March 2, 1881, c. 107, §§ 1, 2, 21 Stat. 377; Feb. 19, 1920, c. 83, §§ 1-5.) •

§§ 7129-7133. Repealed by Act June 5, 1920, c. 250, § 30, subsection X. See that Act, in § 7516t. for qualified character of such repeal.

TITLE LIII.

STEAM VESSELS AND MOTOR BOATS.

CHAPTER 2.

PASSENGER AND MERCHANDISE TRANSPORTATION.

§ 7479a. **Application of laws to vessels operated by Shipping Board.**—All steam vessels owned or operated by the United States Shipping Board, or any corporation organized or controlled by it, shall be subject to all the provisions of Title 52 of the Revised Statutes of the United States for the regulation of steam vessels and Acts amendatory thereof or supplemental thereto. (Act Oct. 25, 1919, c. 82, § 1.)

TITLE LIV.

SPECIAL MERCHANT MARINE.

§ 7481. When corporation or partnerships deemed citizen; receivers and trustees.—(a) Within the meaning of this Act no corporation, partnership, or association shall be deemed a citizen of the United States unless the controlling interest therein is owned by citizens of the United States, and, in the case of a corporation, unless its president and managing directors are citizens of the United States and the corporation itself is organized under the laws of the United States or of a State, Territory, District, or possession thereof, but in the case of a corporation, association, or partnership operating any vessel in the coastwise trade the amount of interest required to be owned by citizens of the United States shall be 75 per centum.

(b) The controlling interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to a majority of the stock thereof is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if the majority of the voting power in such corporation is not vested in citizens of the United States; or (c) if through any contract or understanding it is so arranged that the majority of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

(c) Seventy-five per centum of the interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States; or (c) if, through any contract or understanding it is so arranged that more than 25 per centum of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

(d) The provisions of this Act shall apply to receivers and trustees of all persons to whom the Act applies, and to the successors or assignees of such persons. (R. S. § 4561; Acts July 20, 1840, c. 48, 5 Stat. 396; June 26, 1884, c. 121, § 4, 23 Stat. 54; Dec. 21, 1898, c. 28, § 11, 30 Stat. 758; June 5, 1920, c. 250, § 38.)

Note.—See § 7516.

§ 7482. United States Shipping Board.—A board is hereby created to be known as the United States Shipping Board and hereinafter referred to as the board. The board shall be composed of seven commissioners, to be appointed by the President, by and with the advice and consent of the Senate; and the President shall designate the member to act as chairman of the board, and the board may elect one of its members as vice chairman. Such commissioners shall be appointed as soon as practicable after the enactment of this Act and shall continue in office two for a term of one year, and the remaining five for terms of two, three, four, five, and six

years, respectively, from the date of their appointment, the term of each to be designated by the President, but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he succeeds.

The commissioners shall be appointed with due regard to their fitness for the efficient discharge of the duties imposed on them by this Act, and two shall be appointed from the States touching the Pacific Ocean, two from the States touching the Atlantic Ocean, one from the States touching the Gulf of Mexico, one from the States touching the Great Lakes, and one from the interior, but not more than one shall be appointed from the same State. Not more than four of the commissioners shall be appointed from the same political party. A vacancy in the board shall be filled in the same manner as the original appointments. No commissioner shall take any part in the consideration or decision of any claim or particular controversy in which he has a pecuniary interest.

Each commissioner shall devote his time to the duties of his office, and shall not be in the employ of or hold any official relation to any common carrier or other person subject to this Act, nor while holding such office acquire any stock or bonds thereof or become pecuniarily interested in any such carrier.

The duties of the board may be so divided that under its supervision the directorship of various activities may be assigned to one or more commissioners. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the board shall not impair the right of the remaining members of the board to exercise all its powers. The board shall have an official seal, which shall be judicially noticed.

The board may adopt rules and regulations in regard to its procedure and the conduct of its business. The board may employ within the limits of appropriations made therefor by Congress such attorneys as it finds necessary for proper legal service to the board in the conduct of its work, or for proper representation of the public interest in investigations made by it or proceedings pending before it whether at the board's own instance or upon complaint, or to appear for or represent the board in any case in court or other tribunal. The board shall have such other rights and perform such other duties not inconsistent with the Merchant Marine Act, 1920, as are conferred by existing law upon the board in existence at the time this section as amended takes effect.

The commissioners in office at the time this section as amended takes effect shall hold office until all the commissioners provided for in this section as amended are appointed and qualify. (Acts Sept. 7, 1916, c. 451, § 3, 39 Stat. 729; June 5, 1920, c. 250, § 3.)

§ 7488. Employees' salaries and expenses.

Note.—Act June 5, 1920, c. 250, § 3, provides that "each member of the board shall receive a salary of \$12,000 per annum."

§ 7484. Repealed by Act June 5, 1920, c. 250, § 2—§ 7516b, herein.

§ 7486. Repealed by Act June 5, 1920, c. 250, § 2—§ 7516b herein.

§ 7487. Repealed by Act June 5, 1920, c. 250, § 2—§ 7516b herein.

§ 7488. **Registry or enrollment and licensing of vessels; coastwise trade; transfer.**—Any vessel purchased, chartered, or leased from the board, by persons who are citizens of the United States, may be registered or enrolled and licensed, or both registered and enrolled and licensed, as a vessel of the United States and entitled to the benefits and privileges appertaining thereto: Provided, That foreign-built vessels admitted to American registry or enrollment and license under this Act, and vessels owned by any corporation in which the United States is a stockholder, and vessels sold, leased, or chartered by the board to any person a citizen of the United States, as provided in this Act, may engage in the coastwise trade of the United States while owned, leased, or chartered by such person.

Every vessel purchased, chartered, or leased from the board shall, unless otherwise authorized by the board, be operated only under such registry or enrollment and license. Such vessels while employed solely as merchant

vessels shall be subject to all laws, regulations, and liabilities governing merchant vessels, whether the United States be interested therein as owner, in whole or in part, or hold any mortgage, lien, or other interest therein.

It shall be unlawful to sell, transfer or mortgage, or except under regulations prescribed by the board, to charter, any vessel purchased from the board or documented under the laws of the United States to any person not a citizen of the United States, or to put the same under a foreign registry or flag, without first obtaining the board's approval.

Any vessel chartered, sold, transferred or mortgaged to a person not a citizen of the United States or placed under a foreign registry or flag, or operated, in violation of any provision of this section shall be forfeited to the United States, and whoever violates any provision of this section shall be guilty of a misdemeanor and subject to a fine of not more than \$5,000, or to imprisonment for not more than five years, or both. (Acts Sept. 7, 1916, c. 451, § 9, 39 Stat. 730; July 15, 1918, c. 152, § 3, 40 Stat.; June 5, 1920, c. 250. § 18.)

§ 7493. Rebates and discriminations; use of fighting ships.—No common carrier by water shall, directly or indirectly, in respect to the transportation by water of passengers or property between a port of a State, Territory, District or possession of the United States and any other such port or a port of a foreign country,—

First. Pay, or allow, or enter into any combination, agreement, or understanding, express or implied, to pay or allow, a deferred rebate to any shipper. The term "deferred rebate" in this Act means a return of any portion of the freight money by a carrier to any shipper as a consideration for the giving of all or any portion of his shipments to the same or any other carrier, or for any other purpose, the payment of which is deferred beyond the completion of the service for which it is paid, and is made only if, during both the period for which computed and the period of deferment, the shipper has complied with the terms of the rebate agreement or arrangement.

Second. Use a fighting ship either separately or in conjunction with any other carrier, through agreement or otherwise. The term "fighting ship" in this Act means a vessel used in a particular trade by a carrier or group of carriers for the purpose of excluding, preventing or reducing competition by driving another carrier out of said trade.

Third. Retaliate against any shipper by refusing, or threatening to refuse, space accommodations when such are available, or resort to other discriminating or unfair methods, because such shipper has patronized any other carrier or has filed a complaint charging unfair treatment, or for any other reason.

Fourth. Make any unfair or unjustly discriminatory contract with any shipper based on the volume of freight offered, or unfairly treat or unjustly discriminate against any shipper in the matter of (a) cargo space accommodations or other facilities, due regard being had for the proper loading of the vessel and the available tonnage; (b) the loading and landing of freight in proper condition; or (c) the adjustment and settlement of claims.

Any carrier who violates any provisions of this section shall be guilty of a misdemeanor punishable by a fine of not more than \$25,000 for each offense. (Acts Sept. 7, 1916, c. 451, § 14, 39 Stat. 733; June 5, 1920, c. 250, § 20.)

§ 7493a. Violations of preceding section.—The board upon its own initiative may, or upon complaint shall, after due notice to all parties in interest and hearing, determine whether any person, not a citizen of the United States and engaged in transportation by water of passengers or property—

(1) Has violated any provision of section 14, or

(2) Is a party to any combination, agreement, or understanding, express or implied, that involves in respect to transportation of passengers or property between foreign ports, deferred rebates or any other unfair practice designated in section 14, and that excludes from admission upon equal terms with all other parties thereto, a common carrier by water which is a citizen of the United States and which has applied for such admission.

If the board determines that any such person has violated any such provision or is a party to any such combination, agreement, or understanding, the board shall thereupon certify such fact to the Secretary of Commerce.

The Secretary shall thereafter refuse such person the right of entry for any ship owned or operated by him or by any carrier directly or indirectly controlled by him, into any port of the United States, or any Territory, District, or possession thereof, until the board certifies that the violation has ceased or such combination, agreement, or understanding has been terminated. (Act Sept. 7, 1916, c. 451, § 14a, as added by Act June 5, 1920, c. 250, § 20.)

Note.—§ 14 is now § 7493.

§ 7516. Suits and claims against United States in admiralty and for salvage services.—(a) *Judicial seizure of vessel or cargo in which United States is interested.*—No vessel owned by the United States or by any corporation in which the United States or its representatives shall own the entire outstanding capital stock or in the possession of the United States or of such corporation or operated by or for the United States or such corporation, and no cargo owned or possessed by the United States or by such corporation, shall hereafter, in view of the provision herein made for a libel in personam, be subject to arrest or seizure by judicial process in the United States or its possessions: Provided, That this Act shall not apply to the Panama Railroad Company.

(b) *Libel in personam against United States or corporation, subsidized corporation; service; venue; transfer; cross-libel or set-off.*—In cases where if such vessel were privately owned or operated, or if such cargo were privately owned and possessed, a proceeding in admiralty could be maintained at the time of the commencement of the action herein provided for, a libel in personam may be brought against the United States or against such corporation, as the case may be, provided that such vessel is employed as a merchant vessel or is a tug boat operated by such corporation. Such suits shall be brought in the district court of the United States for the district in which the parties so suing, or any of them, reside or have their principal place of business in the United States, or in which the vessel or cargo charged with liability is found. The libellant shall forthwith serve a copy of his libel on the United States attorney for such district and mail a copy thereof by registered mail to the Attorney General of the United States, and shall file a sworn return of such service and mailing. Such service and mailing shall constitute valid service on the United States and such corporation. In case the United States or such corporation shall file a libel in rem or in personam in any district, a cross-libel in personam may be filed or a set-off claimed against the United States or such corporation with the same force and effect as if the libel had been filed by a private party. Upon application of either party the cause may, in the discretion of the court, be transferred to any other district court of the United States.

(c) *Procedure; costs and interest; appeals; bond or stipulation.*—Such suits shall proceed and shall be heard and determined according to the principles of law and to the rules of practice obtaining in like cases between private parties. A decree against the United States or such corporation may include costs of suit, and when the decree is for a money judgment, interest at the rate of 4 per centum per annum until satisfied, or at any higher rate which shall be stipulated in any contract upon which such decree shall be based. Interest shall run as ordered by the court. Decrees shall be subject to appeal and revision as now provided in other cases of admiralty and maritime jurisdiction. If the libellant so elects in his libel the suit may proceed in accordance with the principles of libels in rem wherever it shall appear that had the vessel or cargo been privately owned and possessed a libel in rem might have been maintained. Election so to proceed shall not preclude the libellant in any proper case from seeking relief in personam in the same suit. Neither the United States nor such corporation shall be required to give any bond or admiralty stipulation on any proceeding brought hereunder. Any such bond or stipulation heretofore given in admiralty causes by the United States, the United States Shipping Board, or the United States Shipping Board Emergency Fleet Corporation, shall become void and be surrendered and canceled upon the filing of a suggestion by the Attorney General or other duly authorized law officer that the United States is interested in such cause, and assumes liability to satisfy any decree included within said bond or stipulation, and thereafter any such decree shall be paid as provided in section 8 of this Act.

(d) *Release of private vessel on suggestion of Federal interest therein.*—If a privately owned vessel not in the possession of the United States or of such corporation is arrested or attached upon any cause of action arising or alleged to have arisen from previous possession, ownership, or operation of such vessel by the United States or by such corporation, such vessel shall be released without bond or stipulation therefor upon the suggestion by the United States, through its Attorney General or other duly authorized law officer, that it is interested in such cause, desires such release, and assumes the liability for the satisfaction of any decree obtained by the libellant in such cause, and thereafter such cause shall proceed against the United States in accordance with the provisions of this Act.

(e) *Limitation of suits.*—Suits as herein authorized may be brought only on causes of action arising since April 6, 1917, provided that suits based on causes of action arising prior to the taking effect of this Act shall be brought within one year after this Act goes into effect; and all other suits hereunder shall be brought within two years after the cause of action arises.

(f) *Exemptions and limitations of liability.*—The United States or such corporation shall be entitled to the benefits of all exemptions and of all limitations of liability accorded by law to the owners, charterers, operators, or agents of vessels. (Act March 9, 1920, c. 95, § 6.)

(g) *Foreign suits against Federal vessels or masters thereof.*—If any vessel or cargo within the purview of sections 1 and 4 of this Act is arrested, attached, or otherwise seized by process of any court in any country other than the United States, or if any suit is brought therein against the master of any such vessel for any cause of action arising from, or in connection with, the possession, operation, or ownership of any such vessel, or the possession, carriage, or ownership of any such cargo, the Secretary of State of the United States in his discretion, upon the request of the Attorney General of the United States, or any other officer duly authorized by him, may direct the United States consul residing at or nearest the place at which such action may have been commenced to claim such vessel or cargo as immune from such arrest, attachment, or other seizure, and to execute an agreement, undertaking, bond, or stipulation for and on behalf of the United States, or the United States Shipping Board, or such corporation as by said court required, for the release of such vessel or cargo, and for the prosecution of any appeal; or may, in the event of such suits against the master of any such vessel, direct said United States consul to enter the appearance of the United States, or of the United States Shipping Board, or of such corporation, and to pledge the credit thereof to the payment of any judgment and cost that may be entered in such suit. The Attorney General is hereby vested with power and authority to arrange with any bank, surety company, person, firm, or corporation in the United States, its Territories and possessions, or in any foreign country, to execute any such aforesaid bond or stipulation as surety or stipulator thereon, and to pledge the credit of the United States to the indemnification of such surety or stipulator as may be required to secure the execution of such bond or stipulation. The presentation of a copy of the judgment roll in any such suit, certified by the clerk of the court and authenticated by the certificate and seal of the United States consul claiming such vessel or cargo, or his successor, and by the certificate of the Secretary of State as to the official capacity of such consul, shall be sufficient evidence to the proper accounting officers of the United States, or of the United States Shipping Board, or of such corporation, for the allowance and payment of such judgments. Provided, however, That nothing in this section shall be held to prejudice or preclude a claim of the immunity of such vessel or cargo from foreign jurisdiction in a proper case.

(h) *Payment of judgment, award or settlement.*—Any final judgment rendered in any suit herein authorized, and any final judgment within the purview of sections 4 and 7 of this Act, and any arbitration award or settlement had and agreed to under the provisions of section 9 of this Act, shall, upon the presentation of a duly authenticated copy thereof, be paid by the proper accounting officers of the United States out of any appropriation or insurance fund or other fund especially available therefor; otherwise there is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, a sum sufficient to pay any such judgment or award or settlement.

(i) *Arbitration or settlement of admiralty claims.*—The Secretary of any department of the Government of the United States, or the United States Shipping Board, or the board of trustees of such corporation, having control of the possession or operation of any merchant vessel are, and each hereby is, authorized to arbitrate, compromise, or settle any claim in which suit will lie under the provisions of sections 2, 4, 7, and 10 of this Act.

(j) *Suits for salvage services.*—The United States, and the crew of any merchant vessel owned or operated by the United States, or such corporation, shall have the right to collect and sue for salvage services rendered by such vessel and crew, and any moneys recovered therefrom by the United States for its own benefit, and not for the benefit of the crew, shall be covered into the United States Treasury to the credit of the department of the Government of the United States, or of the United States Shipping Board, or of such corporation, having control of the possession or operation of such vessel.

(k) *Disposition of moneys recovered on account of Federal vessels or cargoes.*—All moneys recovered in any suit brought by the United States on any cause of action arising from, or in connection with, the possession, operation, or ownership of any merchant vessel, or the possession, carriage, or ownership of any cargo, shall be covered into the United States Treasury to the credit of the department of the Government of the United States, or of the United States Shipping Board, or of such aforesaid corporation, having control of the vessel or cargo with respect to which such cause of action arises, for reimbursement of the appropriation, or insurance fund, or other funds, from which the loss, damage, or compensation for which said judgment was recovered has been or will be paid.

(l) *Report to Congress of suits, awards and settlements.*—The Attorney General shall report to the Congress at each session thereof the suits under this Act in which final judgment shall have been rendered for or against the United States and such aforesaid corporation, and the Secretary of any department of the Government of the United States, and the United States Shipping Board, and the board of trustees of any such aforesaid corporation, shall likewise report the arbitration awards or settlements of claims which shall have been agreed to since the previous session, and in which the time to appeal shall have expired or have been waived. (Act March 9, 1920, c. 95, §§ 1-12.)

Note 1.—This section formerly contained Act March 1, 1918, c. 19, 40 Stat. 433, authorizing the United States Shipping Board Emergency Fleet Corporation to acquire houses for its employees and to dispose of the same. This statute was repealed by Act June 5, 1920, c. 250, § 16, with the proviso that "expenditures may be made under said Act for the repair of houses and buildings already constructed, and the completion of such houses or buildings as have heretofore been contracted for or are under construction, if considered advisable, and the board is authorized and directed to dispose of all such properties or the interest of the United States in all such properties at as early a date as practicable, consistent with good business and the best interests of the United States."

Note 2.—§ 1 is now (a) under § 7516; § 2 is now (b) under § 7516; § 4 is now (d) under § 7516; § 7 is now (g) under § 7516; § 8 is now (h) under § 7516; § 9 is now (i) under § 7516; § 10 is now (j) under § 7516.

§ 7516a. *Policy to develop merchant marine.*—It is necessary for the national defense and for the proper growth of its foreign and domestic commerce that the United States shall have a merchant marine of the best equipped and most suitable types of vessels sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or national emergency, ultimately to be owned and operated privately by citizens of the United States; and it is hereby declared to be the policy of the United States to do whatever may be necessary to develop and encourage the maintenance of such a merchant marine, and, in so far as may not be inconsistent with the express provisions of this Act, the United States Shipping Board shall, in the disposition of vessels and shipping property as hereinafter provided, in the making of rules and regulations, and in the administration of the shipping laws keep always in view this purpose and object as the primary end to be attained. (Act June 5, 1920, c. 250, § 1.)

Note.—See § 7516y for title of this Act.

§ 7516b. Repeal of laws; adjustment of war-time activities of shipping board.—(a) The following Acts and parts of Acts are hereby repealed, subject to the limitations and exceptions hereinafter, in this Act, provided: (1) The emergency shipping fund provisions of the Act entitled "An Act making appropriations to supply urgent deficiencies in appropriations for the Military and Naval Establishments on account of war expenses for the fiscal year ending June 30, 1917, and for other purposes," approved June 15, 1917, as amended by the Act entitled "An Act to amend the emergency shipping fund provisions of the Urgent Deficiency Appropriation Act, approved June 15, 1917, so as to empower the President and his designated agents to take over certain transportation systems for the transportation of shipyard and plant employees, and for other purposes," approved April 22, 1918, and as further amended by the Act entitled "An Act making appropriation to supply deficiencies in appropriations for the fiscal year ending June 30, 1919, and prior fiscal years, on account of war expenses, and for other purposes," approved November 4, 1918. (2) Section 3 of such Act of April 22, 1918. (3) The paragraphs numbered 2 and 3 under the heading "Emergency shipping fund" in such Act of November 4, 1918. (4) The Act entitled "An Act to confer on the President power to prescribe charter rates and freight rates and to requisition vessels, and for other purposes," approved July 18, 1918. (5) Sections 5, 7, and 8, Shipping Act, 1916.

(b) The repeal of such Acts or parts of Acts is subject to the following limitations: (1) All contracts or agreements lawfully entered into before the passage of this Act under any such Act or part of Act shall be assumed and carried out by the United States Shipping Board, hereinafter called "the board." (2) All rights, interests, or remedies accruing or to accrue as a result of any such contract, or agreement or of any action taken in pursuance of any such Act or parts of Acts shall be in all respects as valid, and may be exercised and enforced in like manner, subject to the provisions of subdivision (c) of this section, as if this Act had not been passed. (3) The repeal shall not have the effect of extinguishing any penalty incurred under such Acts or parts of Acts, but such Acts or parts of Acts shall remain in force for the purpose of sustaining a prosecution for enforcement of the penalty therein provided for the violation thereof. (4) The board shall have full power and authority to complete or conclude any construction work begun in accordance with the provisions of such Acts or parts of Acts if, in the opinion of the board, the completion or conclusion thereof is for the best interests of the United States.

(c) As soon as practicable after the passage of this Act the board shall adjust, settle, and liquidate all matters arising out of or incident to the exercise by or through the President of any of the powers or duties conferred or imposed upon the President by any such Act or parts of Acts; and for this purpose the board, instead of the President, shall have and exercise any of such powers and duties relating to the determination and payment of just compensation: Provided, That any person dissatisfied with any decision of the board shall have the same right to sue the United States as he would have had if the decision had been made by the President of the United States under the Acts hereby repealed. (Act June 5, 1920, c. 250; § 2.)

Note.—The statutes so repealed are §§ 7484, 7486, 7487, 10154, 10155.

§ 7516c. Transfer to shipping board of vessels and property acquired for war purposes.—All vessels and other property or interests of whatsoever kind, including vessels or property in course of construction or contracted for, acquired by the President through any agencies whatsoever in pursuance of authority conferred by the Acts or parts of Acts repealed by section 2 of this Act, or in pursuance of the joint resolution entitled "Joint resolution authorizing the President to take over for the United States the possession and title of any vessel within its jurisdiction, which at the time of coming therein was owned in whole or in part by any corporation, citizen, or subject of any nation with which the United States may be at war, or was under register of any such nation, and for other purposes," approved May 12, 1917, with the exception of vessels and property the use of which is in the opinion of the President required by any other branch of the Government service of the United

States, are hereby transferred to the board: Provided, That all vessels in the military and naval service of the United States, including the vessels assigned to river and harbor work, inland waterways, or vessels for such needs in the course of construction or under contract by the War Department, shall be exempt from the provisions of this Act. (Act June 5, 1920, c. 250, § 4.)

Note.—§ 2 is now § 7516b.

§ 7516d. Sale of such vessels to citizens.—In order to accomplish the declared purposes of this Act, and to carry out the policy declared in section 1 hereof, the board is authorized and directed to sell, as soon as practicable, consistent with good business methods and the objects and purposes to be attained by this Act, at public or private competitive sale after appraisement and due advertisement, to persons who are citizens of the United States except as provided in section 6 of this Act, all of the vessels referred to in section 4 of this Act or otherwise acquired by the board. Such sale shall be made at such prices and on such terms and conditions as the board may prescribe, but the completion of the payment of the purchase price and interest shall not be deferred more than fifteen years after the making of the contract of sale. The board in fixing or accepting the sale price of such vessels shall take into consideration the prevailing domestic and foreign market price of, the available supply of, and the demand for vessels, existing freight rates and prospects of their maintenance, the cost of constructing vessels of similar types under prevailing conditions, as well as the cost of the construction or purchase price of the vessels to be sold, and any other facts or conditions that would influence a prudent, solvent business man in the sale of similar vessels or property which he is not forced to sell. All sales made under the authority of this Act shall be subject to the limitations and restrictions of section 9 of the Shipping Act, 1916," as amended. (§ 7488) (Act June 5, 1920, c. 250, § 5.)

Note.—§ 1 is now § 7516a; § 4 is now § 7516c; § 6 is now § 7516e.

§ 7516e. Sale of undesirable vessels to aliens.—The board is authorized and empowered to sell to aliens, at such prices and on such terms and conditions as it may determine, not inconsistent with the provisions of section 5 (except that completion of the payment of the purchase price and interest shall not be deferred more than ten years after the making of the contract of sale), such vessels as it shall, after careful investigation, deem unnecessary to the promotion and maintenance of an efficient American merchant marine; but no such sale shall be made unless the board, after diligent effort, has been unable to sell, in accordance with the terms and conditions of section 5, such vessels to person citizens of the United States, and has, upon an affirmative vote of not less than five of its members, spread upon the minutes of the board, determined to make such sale; and it shall make as a part of its records a full statement of its reasons for making such sale. Deferred payments of purchase price of vessels under this section shall bear interest at the rate of not less than 5½ per centum per annum, payable semiannually. (Act June 5, 1920, c. 250, § 6.)

Note.—§ 5 is now § 7516d.

§ 7516f. Establishment and operation of steamship lines.—The board is authorized and directed to investigate and determine as promptly as possible after the enactment of this Act and from time to time thereafter what steamship lines should be established and put in operation from ports in the United States or any Territory, District, or possession thereof to such world and domestic markets as in its judgment are desirable for the promotion, development, expansion, and maintenance of the foreign and coastwise trade of the United States and an adequate postal service, and to determine the type, size, speed, and other requirements of the vessels to be employed upon such lines and the frequency and regularity of their sailing, with a view to furnishing adequate, regular, certain, and permanent service. The board is authorized to sell, and if a satisfactory sale can not be made, to charter such of the vessels referred to in section 4 of this Act or otherwise acquired by the board, as will meet these requirements to responsible persons who are citizens of the

United States who agree to establish and maintain such lines upon such terms of payment and other conditions as the board may deem just and necessary to secure and maintain the service desired; and if any such steamship line is deemed desirable and necessary, and if no such citizen can be secured to supply such service by the purchase or charter of vessels on terms satisfactory to the board, the board shall operate vessels on such line until the business is developed so that such vessels may be sold on satisfactory terms and the service maintained, or unless it shall appear within a reasonable time that such line can not be made self-sustaining. The Postmaster General is authorized, notwithstanding the Act entitled "An Act to provide for ocean mail service between the United States and foreign ports, and to promote commerce," approved March 3, 1891, to contract for the carrying of the mails over such lines at such price as may be agreed upon by the board and the Postmaster General: Provided, That preference in the sale or assignment of vessels for operation on such steamship lines shall be given to persons who are citizens of the United States who have the support, financial and otherwise, of the domestic communities primarily interested in such lines if the board is satisfied of the ability of such persons to maintain the service desired and proposed to be maintained, or to persons who are citizens of the United States who may then be maintaining a service from the port of the United States to or in the general direction of the world market port to which the board has determined that such service should be established: Provided further, That where steamship lines and regular service have been established and are being maintained by ships of the board at the time of the enactment of this Act, such lines and service shall be maintained by the board until, in the opinion of the board, the maintenance thereof is unbusinesslike and against the public interests: And provided further, That whenever the board shall determine, as provided in this Act, that trade conditions warrant the establishment of a service or additional service under Government administration where a service is already being given by persons, citizens of the United States, the rates and charges for such Government service shall not be less than the cost thereof, including a proper interest and depreciation charge on the value of Government vessels and equipment employed therein. (Act June 5, 1920, c. 250, § 7.)

Note.—§ 4 is now § 7516c.

§ 7516g. Investigation by board of traffic conditions, facilities, regulations and rates.—It shall be the duty of the board, in cooperation with the Secretary of War, with the object of promoting, encouraging, and developing ports and transportation facilities in connection with water commerce over which it has jurisdiction, to investigate territorial regions and zones tributary to such ports, taking into consideration the economies of transportation by rail, water and highway and the natural direction of the flow of commerce; to investigate the causes of the congestion of commerce at ports and the remedies applicable thereto; to investigate the subject of water terminals, including the necessary docks, warehouses, apparatus, equipment, and appliances in connection therewith, with a view to devising and suggesting the types most appropriate for different locations and for the most expeditious and economical transfer or interchange of passengers or property between carriers by water and carriers by rail; to advise with communities regarding the appropriate location and plan of construction of wharves, piers, and water terminals; to investigate the practicability and advantages of harbor, river, and port improvements in connection with foreign and coastwise trade; and to investigate any other matter that may tend to promote and encourage the use by vessels of ports adequate to care for the freight which would naturally pass through such ports: Provided, That if after such investigation the board shall be of the opinion that rates, charges, rules, or regulations of common carriers by rail subject to the jurisdiction of the Interstate Commerce Commission are detrimental to the declared object of this section, or that new rates, charges, rules, or regulations, new or additional port terminal facilities, or affirmative action on the part of such common carriers by rail is necessary to promote the objects of this section, the board may submit its findings to the Interstate Commerce Commission for such action as such commission may consider proper under existing law. (Act June 5, 1920, c. 250, § 8.)

§ 7516h. Insurance of vessels.—If the terms and conditions of any sale of a vessel made under the provisions of this Act include deferred payments of the purchase price, the board shall require, as part of such terms and conditions, that the purchaser of the vessel shall keep the same insured (a) against loss or damage by fire, and against marine risks and disasters, and war and other risks if the board so specifies, with such insurance companies, associations or underwriters, and under such forms of policies, and to such an amount, as the board may prescribe or approve; and (b) by protection and indemnity insurance with such insurance companies, associations, or underwriters and under such forms of policies, and to such an amount as the board may prescribe or approve. The insurance required to be carried under this section shall be made payable to the board and/or to the parties as interest may appear. The board is authorized to enter into any agreement that it deems wise in respect to the payment and/or the guarantee of premiums of insurance. (Act June 5, 1920, c. 250, § 9.)

§ 7516l. Insurance fund.—The board may create out of net revenue from operations and sales, and maintain and administer, a separate insurance fund, which it may use to insure in whole or in part, against all hazards commonly covered by insurance policies in such cases, any interest of the United States (1) in any vessel, either constructed or in process of construction, and (2) in any plants or materials heretofore or hereafter acquired by the board or hereby transferred to the board. (Act June 5, 1920, c. 250, § 10.)

§ 7516j. Construction loan fund; aid for construction of vessels.—During a period of five years from the enactment of this Act the board may annually set aside out of the revenues from sales and operations a sum not exceeding \$25,000,000, to be known as its construction loan fund, to be used in aid of the construction of vessels of the best and most efficient type for the establishment and maintenance of service on steamship lines deemed desirable and necessary by the board, and such vessels shall be equipped with the most modern, the most efficient, and the most economical machinery and commercial appliances. The board shall use such fund to the extent required upon such terms as the board may prescribe to aid persons, citizens of the United States, in the construction by them in private shipyards in the United States of the foregoing class of vessels. No aid shall be for a greater sum than two-thirds of the cost of the vessel or vessels to be constructed, and the board shall require such security, including a first lien upon the entire interest in the vessel or vessels so constructed as it shall deem necessary to insure the repayment of such sum with interest thereon and the maintenance of the service for which such vessel or vessels are built. (Act June 5, 1920, c. 250, § 11.)

§ 7516jj. Repair and operation of vessels by board or by fleet corporation.—All vessels may be reconditioned and kept in suitable repair and until sold shall be managed and operated by the board or chartered or leased by it on such terms and conditions as the board shall deem wise for the promotion and maintenance of an efficient merchant marine, pursuant to the policy and purposes declared in sections 1 and 5 of this Act; and the United States Shipping Board Emergency Fleet Corporation shall continue in existence and have authority to operate vessels, unless otherwise directed by law, until all vessels are sold in accordance with the provisions of this Act, the provision in section 11 of the "Shipping Act, 1916," to the contrary notwithstanding. (Act June 5, 1920, c. 250, § 12.)

Note.—§ 1 is now § 7516a; § 5 is now § 7516d.

§ 7516k. Sale by board of property other than vessels.—The board is further authorized to sell all property other than vessels transferred to it under section 4 upon such terms and conditions as the board may determine and prescribe. (Act June 5, 1920, c. 250, § 13.)

Note.—§ 4 is now § 7516c.

§ 7516kk. Disposition of moneys received by board.—The net proceeds derived by the board prior to July 1, 1921, from any activities authorized by this Act, or by the "Shipping Act, 1916," or by the Acts specified in section 2 of this Act, except such an amount as the board shall deem

necessary to withhold as operating capital, for the purposes of section 12 hereof, and for the insurance fund authorized in section 10 hereof, and for the construction loan fund authorized in section 11 hereof, shall be covered into the Treasury of the United States to the credit of the board and may be expended by it, within the limits of the amounts heretofore or hereafter authorized, for the construction, requisitioning, or purchasing of vessels. After July 1, 1921, such net proceeds, less such an amount as may be authorized annually by Congress to be withheld as operating capital, and less such sums as may be needed for such insurance and construction loan funds, shall be covered into the Treasury of the United States as miscellaneous receipts. The board shall, as rapidly as it deems advisable, withdraw investment of Government funds made during the emergency under the authority conferred by the Acts or parts of Acts repealed by section 2 of this Act and cover the net proceeds thereof into the Treasury of the United States as miscellaneous receipts. (Act June 5, 1920, c. 250, § 14.)

Note.—§ 2 is now § 7516b; § 10 is now § 7516i; § 11 is now § 7516j; § 12 is now § 7516jj.

§ 7516l. Hire of vessels by War Department.—The board shall not require payment from the War Department for the charter hire of vessels owned by the United States Government furnished by the board from July 1, 1918, to June 30, 1919, inclusive, for the use of such department. (Act June 5, 1920, c. 250, § 15.)

§ 7516ll. Taking over and development by board of warehouses and terminal facilities acquired for war purposes.—The board is authorized and directed to take over on January 1, 1921, the possession and control of, and to maintain and develop, all docks, piers, warehouses, wharves and terminal equipment and facilities, including all leasehold easements, rights of way, riparian rights and other rights, estates and interests therein or appurtenant thereto, acquired by the President by or under the Act entitled "An Act making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1918, and prior fiscal years, on account of war expenses, and for other purposes," approved March 28, 1918.

The possession and control of such other docks, piers, warehouses, wharves and terminal equipment and facilities or parts thereof, including all leasehold easements, rights of way, riparian rights and other rights, estates or interests therein or appurtenant thereto which were acquired by the War Department or the Navy Department for military or naval purposes during the war emergency may be transferred by the President to the board whenever the President deems such transfer to be for the best interests of the United States.

The President may at any time he deems it necessary, by order setting out the need therefor and fixing the period of such need, permit or transfer the possession and control of any part of the property taken over by or transferred to the board under this section to the War Department or the Navy Department for their needs, and when in the opinion of the President such need therefor ceases the possession and control of such property shall revert to the board. None of such property shall be sold except as may be hereafter provided by law. (Act June 5, 1920, c. 250, § 17.)

§ 7516m. Regulations by board concerning shipping.—(1) The board is authorized and directed in aid of the accomplishment of the purposes of this Act.

(a) To make all necessary rules and regulations to carry out the provisions of this Act;

(b) To make rules and regulations affecting shipping in the foreign trade not in conflict with law in order to adjust or meet general or special conditions unfavorable to shipping in the foreign trade, whether in any particular trade or upon any particular route or in commerce generally and which rise out of or result from foreign laws, rules, or regulations or from competitive methods or practices employed by owners, operators, agents, or masters of vessels of a foreign country; and

(c) To request the head of any department, board, bureau, or agency of the Government to suspend, modify, or annul rules or regulations which have been established by such department, board, bureau, or agency, or

to make new rules or regulations affecting shipping in the foreign trade other than such rules or regulations relating to the Public Health Service, the Consular Service, and the Steamboat Inspection Service.

(2) No rule or regulation shall hereafter be established by any department, board, bureau, or agency of the Government which affect shipping in the foreign trade, except rules or regulations affecting the Public Health Service, the Consular Service, and the Steamboat Inspection Service, until such rule or regulation has been submitted to the board for its approval and final action has been taken thereon by the board or the President.

(3) Whenever the head of any department, board, bureau, or agency of the Government refuses to suspend, modify, or annul any rule or regulation, or make a new rule or regulation upon request of the board, as provided in subdivision (c) of paragraph (1) of this section, or objects to the decision of the board in respect to the approval of any rule or regulation, as provided in paragraph (2) of this section, either the board or the head of the department, board, bureau, or agency which has established or is attempting to establish the rule or regulation in question may submit the facts to the President, who is hereby authorized to establish or suspend, modify, or annul such rule or regulation.

(4) No rule or regulation shall be established which in any manner gives vessels owned by the United States any preference or favor over those vessels documented under the laws of the United States and owned by persons who are citizens of the United States. (Act June 5, 1920, c. 250, § 19.)

§ 7516n. Trade with island territories.—From and after February 1, 1922, the coastwise laws of the United States shall extend to the island Territories and possessions of the United States not now covered thereby, and the board is directed prior to the expiration of such year to have established adequate steamship service at reasonable rates to accommodate the commerce and the passenger travel of said islands and to maintain and operate such service until it can be taken over and operated and maintained upon satisfactory terms by private capital and enterprise: Provided, That if adequate shipping service is not established by February 1, 1922, the President shall extend the period herein allowed for the establishment of such service in the case of any island Territory or possession for such time as may be necessary for the establishment of adequate shipping facilities therefor: Provided, further, That until Congress shall have authorized the registry as vessels of the United States of vessels owned in the Philippine Islands, the Government of the Philippine Islands is hereby authorized to adopt, from time to time, and enforce regulations governing the transportation of merchandise and passengers between ports or places in the Philippine Archipelago: And provided further, That the foregoing provisions of this section shall not take effect with reference to the Philippine Islands until the President of the United States after a full investigation of the local needs and conditions shall, by proclamation, declare that an adequate shipping service has been established as herein provided and fix a date for the going into effect of the same. (Act June 5, 1920, c. 250, § 21.)

§ 7516o. What vessels may engage in coastwise trade; Hawaiian passenger traffic.—The Act entitled "An Act giving the United States Shipping Board power to suspend present provisions of law and permit vessels of foreign registry and foreign-built vessels admitted to American registry under the Act of August 18, 1914, to engage in the coastwise trade during the present war and for a period of one hundred and twenty days thereafter, except the coastwise trade with Alaska," approved October 6, 1917, is hereby repealed: Provided, That all foreign-built vessels admitted to American registry, owned on February 1, 1920, by persons citizens of the United States, and all foreign-built vessels owned by the United States at the time of the enactment of this Act, when sold and owned by persons citizens of the United States, may engage in the coastwise trade so long as they continue in such ownership, subject to the rules and regulations of such trade: Provided, That the board is authorized to issue permits for the carrying of passengers in foreign ships if it deems it necessary so to do, operating between the Territory of Hawaii and the Pacific Coast up to February 1, 1922. (Act June 5, 1920, c. 250, § 22.)

§ 7516p. Taxation of documented vessels.—The owner of a vessel documented under the laws of the United States and operated in foreign trade shall, for each of the ten taxable years while so operated, beginning with the first taxable year ending after the enactment of this Act, be allowed as a deduction for the purpose of ascertaining his net income subject to the war-profits and excess-profits taxes imposed by Title III of the Revenue Act of 1918 an amount equivalent to the net earnings of such vessel during such taxable year, determined in accordance with rules and regulations to be made by the board: Provided, That such owner shall not be entitled to such deductions unless during such taxable year he invested, or set aside under rules and regulations to be made by the board in a trust fund for investment, in the building in shipyards in the United States of new vessels of a type and kind approved by the board, an amount, to be determined by the Secretary of the Treasury and certified by him to the board, equivalent to the war-profits and excess-profits taxes that would have been payable by such owner on account of the net earnings of such vessels but for the deduction allowed under the provisions of this section: Provided further, That at least two-thirds of the cost of any vessel constructed under this paragraph shall be paid for out of the ordinary funds or capital of the person having such vessel constructed.

During the period of ten years from the enactment of this Act any person a citizen of the United States who may sell a vessel documented under the laws of the United States and built prior to January 1, 1914, shall be exempt from all income taxes that would be payable upon any of the proceeds of such sale under Title I, Title II, and Title III of the Revenue Act of 1918 if the entire proceeds thereof shall be invested in the building of new ships in American shipyards, such ships to be documented under the laws of the United States and to be of a type approved by the board. (Act June 5, 1920, c. 250, § 23.)

§ 7516pp. Contracts for carriage of mail.—All mails of the United States shipped or carried on vessels shall, if practicable, be shipped or carried on American-built vessels documented under the laws of the United States. No contract hereafter made with the Postmaster General for carrying mails on vessels so built and documented shall be assigned or sublet, and no mails covered by such contract shall be carried on any vessel not so built and documented. No money shall be paid out of the Treasury of the United States on or in relation to any such contract for carrying mails on vessels so built and documented when such contract has been assigned or sublet or when mails covered by such contract are in violation of the terms thereof carried on any vessel not so built and documented. The board and the Postmaster General, in aid of the development of a merchant marine adequate to provide for the maintenance and expansion of the foreign or coastwise trade of the United States and of a satisfactory postal service in connection therewith, shall from time to time determine the just and reasonable rate of compensation to be paid for such service, and the Postmaster General is hereby authorized to enter into contracts within the limits of appropriations made therefor by Congress to pay for the carrying of such mails in such vessels at such rate. Nothing herein shall be affected by the Act entitled "An Act to provide for ocean mail service between the United States and foreign ports, and to promote commerce," approved March 3, 1891. (Act June 5, 1920, c. 250, § 24.)

§ 7516q. Classification of vessels; American Bureau of Shipping.—For the classification of vessels owned by the United States, and for such other purposes in connection therewith as are the proper functions of a classification bureau, all departments, boards, bureaus, and commissions of the Government are hereby directed to recognize the American Bureau of Shipping as their agency so long as the American Bureau of Shipping continues to be maintained as an organization which has no capital stock and pays no dividends: Provided, That the Secretary of Commerce and the chairman of the board shall each appoint one representative who shall represent the Government upon the executive committee of the American Bureau of Shipping, and the bureau shall agree that these representatives shall be accepted by them as active members of such committee. Such representatives of the Government shall serve without any compensation, except necessary traveling expenses: Provided further, That the official

list of merchant vessels published by the Government shall hereafter contain a notation clearly indicating all vessels classed by the American Bureau of Shipping. (Act June 5, 1920, c. 250, § 25.)

§ 7516qq. Carriage by cargo vessels of persons other than crews.—Cargo vessels documented under the laws of the United States may carry not to exceed sixteen persons in addition to the crew between any ports or places in the United States or its Districts, Territories, or possessions, or between any such port or place and any foreign port, or from any foreign port to another foreign port, and such vessels shall not be held to be "passenger vessels" or "vessels carrying passengers" within the meaning of the inspection laws and the rules and regulations thereunder: Provided, That nothing herein shall be taken to exempt such vessels from the laws, rules, and regulations respecting life-saving equipment: Provided further, That when any such vessel carries persons other than the crew as herein provided for, the owner, agent, or master of the vessel shall first notify such persons of the presence on board of any dangerous articles, as defined by law, or of any other condition or circumstance which would constitute a risk of safety for passenger or crew.

The privilege bestowed by this section on vessels of the United States shall be extended in so far as the foreign trade is concerned to the cargo vessels of any nation which allows the like privilege to cargo vessels of the United States in trade not restricted to vessels under its own flag.

Failure on the part of the owner, agent, or master of the vessel to give such notice shall subject the vessel to a penalty of \$500, which may be mitigated or remitted by the Secretary of Commerce upon a proper representation of the facts. (Act June 5, 1920, c. 250, § 26.)

§ 7516r. What vessels may engage in domestic trade or trade with island possessions.—No merchandise shall be transported by water, or by land and water, on penalty of forfeiture thereof, between points in the United States, including Districts, Territories, and possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States, or vessels to which the privilege of engaging in the coastwise trade is extended by sections 18 or 22 of this Act: Provided, That this section shall not apply to merchandise transported between points within the continental United States, excluding Alaska, over through routes heretofore or hereafter recognized by the Interstate Commerce Commission for which routes rate tariffs have been or shall hereafter be filed with said commission when such routes are in part over Canadian rail lines and their own or other connecting water facilities: Provided further, That this section shall not become effective upon the Yukon river until the Alaska Railroad shall be completed and the Shipping Board shall find that proper facilities will be furnished for transportation by persons citizens of the United States for properly handling the traffic. (Act June 5, 1920, c. 250, § 27.)

Note.—§§ 18, 22, so referred to, are §§ 7488, 7516o.

§ 7516rr. Inland charge for transportation of passengers or property carried by water to or from island possessions or foreign countries.—No common carrier shall charge, collect, or receive, for transportation subject to the Interstate Commerce Act of persons or property, under any joint rate, fare, or charge, or under any export, import, or other proportional rate, fare, or charge, which is based in whole or in part on the fact that the persons or property affected thereby is to be transported to, or has been transported from, any port in a possession or dependency of the United States, or in a foreign country, by a carrier by water in foreign commerce, any lower rate, fare, or charge than that charged, collected, or received by it for the transportation of persons, or of a like kind of property, for the same distance, in the same direction, and over the same route, in connection with commerce wholly within the United States, unless the vessel so transporting such persons or property is, or unless it was at the time of such transportation by water, documented under the laws of the United States. Whenever the board is of the opinion, however, that adequate shipping facilities to or from any port in a possession or dependency of

the United States or a foreign country are not afforded by vessels so documented, it shall certify this fact to the Interstate Commerce Commission, and the commission may, by order, suspend the operation of the provisions of this section with respect to the rates, fares, and charges for the transportation by rail of persons and property transported from, or to be transported, to such ports, for such length of time and under such terms and conditions as it may prescribe in such order, or in any order supplemental thereto. Such suspension of operation of the provisions of this section may be terminated by order of the commission whenever the board is of the opinion that adequate shipping facilities by such vessels to such ports are afforded and shall so certify to the commission. (Act June 5, 1920, c. 250, § 28.)

§ 7516s. Associations by marine insurance companies.—(a) Whenever used in this section—

(1) The term "association" means any association, exchange, pool, combination, or other arrangement for concerted action; and

(2) The term "marine insurance companies" means any persons, companies, or associations, authorized to write marine insurance or reinsurance under the laws of the United States or of a State, Territory, District, or possession thereof.

(b) Nothing contained in the "antitrust laws" as designated in section 1 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, shall be construed as declaring illegal an association entered into by marine insurance companies for the following purposes: To transact a marine insurance and reinsurance business in the United States and in foreign countries and to reinsure or otherwise apportion among its membership the risks undertaken by such association or any of the component members. (Act June 5, 1920, c. 250, § 29.)

§ 7516t. Conveyances, sales and mortgages of vessels.—(A) *Title of law.*—This section may be cited as the "Ship Mortgage Act, 1920."

(B) *Definitions.*—When used in this section—(1) the term "document" includes registry and enrollment and license; (2) the term "documented" means registered or enrolled or licensed under the laws of the United States, whether permanently or temporarily; (3) the term "port of documentation" means the port at which the vessel is documented, in accordance with law; (4) the term "vessel of the United States" means any vessel documented under the laws of the United States and such vessel shall be held to continue to be so documented until its documents are surrendered with the approval of the board; and (5) the term "mortgagee," in the case of a mortgage involving a trust deed and a bond issue thereunder, means the trustee designated in such deed.

(C) *Necessity and effect of recording sales, conveyances, and mortgages of vessels.*—(a) No sale, conveyance, or mortgage which, at the time such sale, conveyance, or mortgage is made, includes a vessel of the United States, or any portion thereof, as the whole or any part of the property sold, conveyed, or mortgaged shall be valid, in respect to such vessel, against any person other than the grantor or mortgagor, his heir or devisee, and a person having actual notice thereof, until such bill of sale, conveyance, or mortgage is recorded in the office of the collector of customs of the port of documentation of such vessel, as provided in subdivision (b) of this subsection.

(b) Such collector of customs shall record bills of sale, conveyances, and mortgages, delivered to him, in the order of their reception, in books to be kept for that purpose and indexed to show—

(1) The name of the vessel;

(2) The names of the parties to the sale, conveyance, or mortgage;

(3) The time and date of reception of the instrument;

(4) The interest in the vessel so sold, conveyed, or mortgaged; and

(5) The amount and date of maturity of the mortgage.

(D) *Conditions of preferred status of mortgaged vessels.*—(a) A valid mortgage which, at the time it is made includes the whole of any vessel of the United States of 200 gross tons and upwards, shall in addition have, in respect to such vessel and as of the date of the compliance with all the provisions of this subdivision, the preferred status given by the provisions of subsection M, if—

(1) The mortgage is indorsed upon the vessel's documents in accordance with the provisions of this section;

(2) The mortgage is recorded as provided in subsection C, together with the time and date when the mortgage is so indorsed;

(3) An affidavit is filed with the record of such mortgage to the effect that the mortgage is made in good faith and without any design to hinder, delay, or defraud any existing or future creditor of the mortgagor or any lienor of the mortgaged vessel;

(4) The mortgage does not stipulate that the mortgagee waives the preferred status thereof; and

(5) The mortgagee is a citizen of the United States.

(b) Any mortgage which complies in respect to any vessel with the conditions enumerated in this subsection is hereafter in this section called a "preferred mortgage" as to such vessel.

(c) There shall be indorsed upon the documents of a vessel covered by a preferred mortgage—

(1) The names of the mortgagor and mortgagee;

(2) The time and date the indorsement is made;

(3) The amount and date of maturity of the mortgage; and

(4) Any amount required to be indorsed by the provisions of subdivision (e) or (f) of this subsection.

(d) Such indorsement shall be made (1) by the collector of customs of the port of documentation of the mortgaged vessel, or (2) by the collector of customs of any port in which the vessel is found, if such collector is directed to make the indorsement by the collector of customs of the port of documentation; and no clearance shall be issued to the vessel until such indorsement is made. The collector of customs of the port of documentation shall give such direction by wire or letter at the request of the mortgagee and upon the tender of the cost of communication of such direction. Whenever any new document is issued for the vessel, such indorsement shall be transferred to and indorsed upon the new document by the collector of customs.

(e) A mortgage which includes property other than a vessel shall not be held a preferred mortgage unless the mortgage provides for the separate discharge of such property by the payment of a specified portion of the mortgage indebtedness. If a preferred mortgage so provides for the separate discharge, the amount of the portion of such payment shall be indorsed upon the documents of the vessel.

(f) If a preferred mortgage includes more than one vessel and provides for the separate discharge of each vessel by the payment of a portion of the mortgage indebtedness, the amount of such portion of such payment shall be indorsed upon the documents of the vessel. In case such mortgage does not provide for the separate discharge of a vessel and the vessel is to be sold upon the order of a district court of the United States in a suit in rem in admiralty, the court shall determine the portion of the mortgage indebtedness increased by 20 per centum (1) which, in the opinion of the court, the approximate value of the vessel bears to the approximate value of all the vessels covered by the mortgage, and (2) upon the payment of which the vessel shall be discharged from the mortgage.

(E) *Copy of mortgage for exhibition on vessel.*—The collector of customs upon the recording of a preferred mortgage shall deliver two certified copies thereof to the mortgagor who shall place, and use due diligence to retain, one copy on board the mortgaged vessel and cause such copy and the documents of the vessel to be exhibited by the master to any person having business with the vessel, which may give rise to a maritime lien upon the vessel or to the sale, conveyance, or mortgage thereof. The master of the vessel shall, upon the request of any such person, exhibit to him the documents of the vessel and the copy of any preferred mortgage of the vessel placed on board thereof.

(F) *Disclosure of other liens adverse to mortgage.*—The mortgagor (1) shall, upon request of the mortgagee, disclose in writing to him prior to the execution of any preferred mortgage, the existence of any maritime lien, prior mortgage, or other obligation or liability upon the vessel to be mortgaged, that is known to the mortgagor, and (2), without consent of the mortgagee, shall not incur, after the execution of such mortgage and before the mortgagee has had a reasonable time in which to record the mortgage

and have indorsements in respect thereto made upon the documents of the vessel, any contractual obligation creating a lien upon the vessel other than a lien for wages of stevedores when employed directly by the owner, operator, master, ship's husband, or agent of the vessel, for wages of the crew of the vessel, for general average, or for salvage, including contract salvage, in respect to the vessel.

(G) *Recordation of claim or discharge of lien.*—(a) The collector of customs of the port of documentation shall, upon the request of any person, record notice of his claim of a lien upon a vessel covered by a preferred mortgage, together with the nature, date of creation, and amount of the lien, and the name and address of the person. Any person who has caused notice of his claim of lien to be so recorded shall, upon a discharge in whole or in part of the indebtedness, forthwith file with the collector of customs a certificate of such discharge. The collector of customs shall thereupon record the certificate.

(b) The mortgagor, upon a discharge in whole or in part of the mortgage indebtedness, shall forthwith file with the collector of customs for the port of documentation of the vessel, a certificate of such discharge. Such collector of customs shall thereupon record the certificate. In case of a vessel covered by a preferred mortgage, the collector of customs at the port of documentation shall (1) indorse upon the documents of the vessel, or direct the collector of customs at any port in which the vessel is found, to so indorse, the fact of such discharge, and (2) shall deny clearance to the vessel until such indorsement is made.

(H) *Acknowledgment of papers for recordation; statement of title; interest on mortgage; recordation at new port of documentation.*—(a) No bill of sale, conveyance, or mortgage shall be recorded unless it states the interest of the grantor or mortgagor in the vessel, and the interest so sold, conveyed, or mortgaged.

(b) No bill of sale, conveyance, mortgage, notice of claim of lien, or certificate of discharge thereof, shall be recorded unless previously acknowledged before a notary public or other officer authorized by a law of the United States, or of a State, Territory, District, or possession thereof, to take acknowledgment of deeds.

(c) In case of a change in the port of documentation of a vessel of the United States, no bill of sale, conveyance, or mortgage shall be recorded at the new port of documentation unless there is furnished to the collector of customs of such port, together with the copy of the bill of sale, conveyance, or mortgage to be recorded, a certified copy of the record of the vessel at the former port of documentation furnished by the collector of such port. The collector of customs at the new port of documentation is authorized and directed to record such certified copy.

(d) A preferred mortgage may bear such rate of interest as is agreed by the parties thereto.

(I) *Inspection and copies of records; fees of collectors.*—Each collector of customs shall permit records made under the provisions of this section to be inspected during office hours, under such reasonable regulations as the collector may establish. Upon the request of any person the collector of customs shall furnish him from the records of the collector's office (1) a certificate setting forth the names of the owners of any vessel, the interest held by each owner, and the material facts as to any bill of sale or conveyance of, any mortgage covering, or any lien or other incumbrance upon, a specified vessel, (2) a certified copy of any bill of sale, conveyance, mortgage, notice of claim of lien, or certificate of discharge in respect to such vessel, or (3) a certified copy as required by subdivision (e) of subsection H. The collector of customs shall collect a fee for any bill of sale, conveyance, or mortgage recorded, or any certificate or certified copy furnished, by him, in the amount of 20 cents a folio with a minimum charge of \$1.00. All such fees shall be covered into the Treasury of the United States as miscellaneous receipts.

(J) *Penalties.*—(a) If the master of the vessel willfully fails to exhibit the documents of the vessel or the copy of any preferred mortgage thereof, as required by subsection E, the board of local inspectors of vessels having jurisdiction of the license of the master, may suspend or cancel such license, subject to the provisions of "An Act to provide for appeals from decisions of boards of local inspectors of vessels and for other purposes," approved June 10, 1918.

(b) A mortgagor who, with intent to defraud, violates any provision of subsection F, and if the mortgagor is a corporation or association, the president or other principal executive officer of the corporation or association, shall upon conviction thereof be held guilty of a misdemeanor and shall be fined not more than \$1,000 or imprisoned not more than 2 years, or both. The mortgaged indebtedness shall thereupon become immediately due and payable at the election of the mortgagee.

(c) If any person enters into any contract secured by, or upon the credit of, a vessel of the United States covered by a preferred mortgage, and suffers pecuniary loss by reason of the failure of the collector of customs, or any officer, employee, or agent thereof, properly to perform any duty required of the collector under the provisions of this section, the collector of customs shall be liable to such person for damages in the amount of such loss. If any such person is caused any such loss by reason of the failure of the mortgagor, or master of the mortgaged vessel, or any officer, employee, or agent thereof, to comply with any provision of subsection E or F or to file an affidavit as required by subdivision (a) of subsection D, correct in each particular thereof, the mortgagor shall be liable to such person for damages in the amount of such loss. The district courts of the United States are given jurisdiction (but not to the exclusion of the courts of the several States, Territories, Districts, or possessions) of suits for the recovery of such damages, irrespective of the amount involved in the suit or the citizenship of the parties thereto. Such suit shall be begun by personal service upon the defendant within the limits of the district. Upon judgment for the plaintiff in any such suit, the court shall include in the judgment an additional amount for costs of the action and a reasonable counsel's fee, to be fixed by the court.

(K) *Foreclosure of preferred mortgages.*—A preferred mortgage shall constitute a lien upon the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by such vessel. Upon the default of any term or condition of the mortgage, such lien may be enforced by the mortgagee by suit in rem in admiralty. Original jurisdiction of all such suits is granted to the district courts of the United States exclusively. In addition to any notice by publication, actual notice of the commencement of any such suit shall be given by the libellant, in such manner as the court shall direct, to (1) the master, other ranking officer, or caretaker of the vessel, and (2) any person who has recorded a notice of claim of an undischarged lien upon the vessel, as provided in subsection G, unless after search by the libellant satisfactory to the court, such mortgagor, master, other ranking officer, caretaker, or claimant is not found within the United States. Failure to give notice to any such person, as required by this subsection, shall not constitute a jurisdictional defect; but the libellant shall be liable to such person for damages in the amount of his interest in the vessel terminated by the suit. Suit in personam for the recovery of such damages may be brought in accordance with the provisions of subdivision (c) of subsection J.

(L) *Receivers for vessels.*—In any suit in rem in admiralty for the enforcement of the preferred mortgage lien, the court may appoint a receiver and, in its discretion, authorize the receiver to operate the mortgaged vessel. The marshal may be authorized and directed by the court to take possession of the mortgaged vessel notwithstanding the fact that the vessel is in the possession or under the control of any person claiming a possessory common-law lien.

(M) *Definition of "preferred maritime lien"; priorities.*—(a) When used hereinafter in this section, the term "preferred maritime lien" means (1) a lien arising prior in time to the recording and indorsement of a preferred mortgage in accordance with the provisions of this section; or (2) a lien for damages arising out of tort, for wages of a stevedore when employed directly by the owner, operator, master, ship's husband, or agent of the vessel, for wages of the crew of the vessel, for general average, and for salvage, including contract salvage.

(b) Upon the sale of any mortgaged vessel by order of a district court of the United States in any suit in rem in admiralty for the enforcement of a preferred mortgage lien thereon, all preexisting claims in the vessel, including any possessory common-law lien of which a lienor is deprived under the provisions of subsection L shall be held terminated and shall

thereafter attach, in like amount and in accordance with their respective priorities, to the proceeds of the sale; except that the preferred mortgage lien shall have priority over all claims against the vessel, except (1) preferred maritime liens, and (2) expenses and fees allowed and costs taxed, by the court.

(N) *Suit in personam against mortgagor; suit in rem respecting property other than vessels.*—(a) Upon the default of any term or condition of a preferred mortgage upon a vessel, the mortgagee may, in addition to all other remedies granted by this section, bring suit in personam in admiralty in a district court of the United States, against the mortgagor for the amount of the outstanding mortgage indebtedness secured by such vessel or any deficiency in the full payment thereof.

(b) This section shall not be construed, in the case of a mortgage covering, in addition to vessels, realty or personalty other than vessels, or both, to authorize the enforcement by suit in rem in admiralty of the rights of the mortgagee in respect to such realty or personalty other than vessels.

(O) *Transfers of mortgaged vessels and assignment of mortgages.*—(a) The documents of a vessel of the United States covered by a preferred mortgage may not be surrendered (except in the case of the forfeiture of the vessel or its sale by the order of any court of the United States or any foreign country) without the approval of the board. The board shall refuse such approval unless the mortgagee consents to such surrender.

(b) The interest of the mortgagee in a vessel of the United States covered by a mortgage, shall not be terminated by the forfeiture of the vessel for a violation of any law of the United States, unless the mortgagee authorized, consented, or conspired to effect the illegal act, failure, or omission which constituted such violation.

(c) Upon the sale of any vessel of the United States covered by a preferred mortgage, by order of a district court of the United States in any suit in rem in admiralty for the enforcement of a maritime lien other than a preferred maritime lien, the vessel shall be sold free from all preexisting claims thereon; but the court shall, upon the request of the mortgagee, the libellant, or any intervenor, require the purchaser at such sale to give and the mortgagor to accept a new mortgage of the vessel for the balance of the term of the original mortgage. The conditions of such new mortgage shall be the same, so far as practicable, as those of the original mortgage and shall be subject to the approval of the court. If such new mortgage is given, the mortgagee shall not be paid from the proceeds of the sale and the amount payable as the purchase price shall be held diminished in the amount of the new mortgage indebtedness.

(d) No rights under a mortgage of a vessel of the United States shall be assigned to any person not a citizen of the United States without the approval of the board. Any assignment in violation of any provision of this section shall be void.

(e) No vessel of the United States shall be sold by order of a district court of the United States in any suit in rem in admiralty to any person not a citizen of the United States.

(P) *Maritime liens for necessities.*—Any person furnishing repairs, supplies, towage, use of dry dock or marine railway, or other necessities, to any vessel, whether foreign or domestic, upon the order of the owner of such vessel, or of a person authorized by the owner, shall have a maritime lien on the vessel, which may be enforced by a suit in rem, and it shall not be necessary to allege or prove that credit was given to the vessel.

(Q) *Who may procure necessities.*—The following persons shall be presumed to have authority from the owner to procure repairs, supplies, towage, use of dry dock or marine railway, and other necessities for the vessel: The managing owner, ship's husband, master, or any person to whom the management of the vessel at the port of supply is intrusted. No person tortiously or unlawfully in possession or charge of a vessel shall have authority to bind the vessel.

(R) *Want of authority to procure necessities.*—The officers and agents of a vessel specified in subsection Q shall be taken to include such officers and agents when appointed by a charterer, by an owner pro hac vice, or by an agreed purchaser in possession of the vessel; but nothing in this section shall be construed to confer a lien when the furnisher knew, or by exercise of reasonable diligence could have ascertained, that because of the

terms of a charter party, agreement for sale of the vessel, or for any other reason, the person ordering the repairs, supplies, or other necessities was without authority to bind the vessel therefor.

(S) *Waiver of lien or its preferred status.*—Nothing in this section shall be construed to prevent the furnisher of repairs, supplies, towage, use of dry dock or marine railway, or other necessities, or the mortgagee, from waiving his right to a lien, or in the case of a preferred mortgage lien, to the preferred status of such lien, at any time, by agreement or otherwise; and this section shall not be construed to affect the rules of law now existing in regard to (1) the right to proceed against the vessel for advances, (2) laches in the enforcement of liens upon vessels, (3) the right to proceed in personam, (4) the rank of preferred maritime liens among themselves, or (5) priorities between maritime liens and mortgages, other than preferred mortgages, upon vessels of the United States.

(T) *State-law liens for necessities superseded.*—This section shall supersede the provisions of all State statutes conferring liens on vessels, in so far as such statutes purport to create rights of action to be enforced by suits in rem in admiralty against vessels for repairs, supplies, towage, use of dry dock or marine railway, and other necessities.

(U) *Existing mortgages.*—This section shall not apply (1) to any existing mortgage, or (2) to any mortgage hereafter placed on any vessel now under an existing mortgage, so long as such existing mortgage remains undischarged.

(V) *Books and records for purposes of Act.*—The Secretary of Commerce is authorized and directed to furnish collectors of customs with all necessary books and records, and with certificates of registry and of enrollment and license in such form as provides for the making of all indorsements thereon required by this section.

(W) *Official regulations.*—The Secretary of Commerce is authorized to make such regulations in respect to the recording and indorsing of mortgages covering vessels of the United States, as he deems necessary to the efficient execution of the provisions of this section.

(X) *Operation of section on existing laws.*—Sections 4192 to 4196, inclusive, of the Revised Statutes of the United States, as amended, and the Act entitled "An Act relating to liens on vessels for repairs, supplies, or other necessities," approved June 23, 1910, are repealed. This section, however, so far as not inconsistent with any of the provisions of law so repealed, shall be held a reenactment of such repealed law, and any right or obligation based upon any provision of such law and accruing prior to such repeal, may be prosecuted in the same manner and to the same effect as if this Act had not been passed. (Act June 5, 1920, c. 250, § 30, subsections A-X.)

§ 7516u. *Termination of treaties respecting customs duties and tonnage dues.*—In the judgment of Congress, articles or provisions in treaties or conventions to which the United States is a party, which restrict the right of the United States to impose discriminating customs duties on imports entering the United States in foreign vessels and in vessels of the United States, and which also restrict the right of the United States to impose discriminatory tonnage dues on foreign vessels and on vessels of the United States entering the United States should be terminated, and the President is hereby authorized and directed within ninety days after this Act becomes law to give notice to the several Governments, respectively, parties to such treaties or conventions, that so much thereof as imposes any such restriction on the United States will terminate on the expiration of such periods as may be required for the giving of such notice by the provisions of such treaties or conventions. (Act June 5, 1920, c. 250, § 34.)

§ 7516v. *Action of board through fleet corporation.*—The power and authority vested in the board by this Act, except as herein otherwise specifically provided, may be exercised directly by the board, or by it through the United States Shipping Board Emergency Fleet Corporation. (Act June 5, 1920, c. 250, § 35.)

§ 7516w. *Partial invalidity of Act.*—If any provision of this Act is declared unconstitutional or the application of any provision to certain circumstances

be held invalid, the remainder of the Act and the application of such provisions to circumstances other than those as to which it is held invalid shall not be affected thereby. (Act June 5, 1920, c. 250, § 36.)

§ 7516x. Definition of certain terms.—When used in this Act, unless the context otherwise requires, the terms “person,” “vessel,” “documented under the laws of the United States,” and “citizen of the United States” shall have the meaning assigned to them by sections 1 and 2 of the “Shipping Act, 1916,” as amended by this Act; the term “board” means the United States Shipping Board; and the term “alien” means any person not a citizen of the United States. (Act June 5, 1920, c. 250, § 37.)

Note.—See §§ 7480, 7481.

§ 7516y. Title of merchant marine law.—This Act may be cited as the Merchant Marine Act, 1920. (Act June 5, 1920, c. 250, § 39.)

TITLE LV. MERCHANT SEAMEN.

CHAPTER 3. WAGES AND EFFECTS.

§ 7552. Payment of wages at ports.—Every seaman on a vessel of the United States shall be entitled to receive on demand from the master of the vessel to which he belongs one-half part of the balance of his wages earned and remaining unpaid at the time which such demand is made at every port where such vessel, after the voyage has been commenced, shall load or deliver cargo before the voyage is ended, and all stipulations in the contract to the contrary shall be void: Provided, Such a demand shall not be made before the expiration of, nor oftener than once in, five days nor more than once in the same harbor on the same entry. Any failure on the part of the master to comply with this demand shall release the seaman from his contract and he shall be entitled to full payment of wages earned. And when the voyage is ended every such seaman shall be entitled to the remainder of the wages which shall be then due him, as provided in section 4529 of the Revised Statutes: Provided further, That notwithstanding any release signed by any seaman under section 4552 of the Revised Statutes any court having jurisdiction may upon good cause shown set aside such release and take such action as justice shall require: And provided further, That this section shall apply to seamen on foreign vessels while in harbors of the United States, and the courts of the United States shall be open to such seamen for its enforcement. (R. S. § 4530; Acts July 20, 1790, c. 29, § 6, 1 Stat. 133; Dec. 21, 1898, c. 28, § 5, 30 Stat. 756; March 4, 1915, c. 153, § 4, 38 Stat. 1165; June 5, 1920, c. 250, § 31.)

§ 7553. Advance wages and allotments.—(a) That it shall be, and is hereby, made unlawful in any case to pay any seaman wages in advance of the time when he has actually earned the same, or to pay such advance wages, or to make any order, or note, or other evidence of indebtedness therefor to any other person, or to pay any person, for the shipment of seamen when payment is deducted or to be deducted from a seaman's wages. Any person violating any of the foregoing provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$25 nor more than \$100, and may also be imprisoned for a period of not exceeding six months, at the discretion of the court. The payment of such advance wages or allotment, whether made within or without the United States or territory subject to the jurisdiction thereof, shall in no case except as herein provided absolve the vessel or the master or the owner thereof from the full payment of wages after the same shall have been actually earned, and shall be no defense to a libel suit or action for the recovery of such wages. If any person shall demand or receive, either directly or indirectly, from any seaman or other

person seeking employment, as seaman, or from any person on his behalf, any remuneration whatever for providing him with employment, he shall for every such offense be deemed guilty of a misdemeanor and shall be imprisoned not more than six months or fined not more than \$500.

(b) It shall be lawful for any seaman to stipulate in his shipping agreement for an allotment of any portion of the wages he may earn to his grand-parents, parents, wife, sister, or children.

(c) No allotment shall be valid unless in writing and signed by and approved by the shipping commissioner. It shall be the duty of the said commissioner to examine such allotments and the parties to them and enforce compliance with the law. All stipulations for the allotment of any part of the wages of a seaman during his absence which are made at the commencement of the voyage shall be inserted in the agreement and shall state the amounts and times of the payments to be made and the persons to whom the payments are to be made.

(d) No allotment except as provided for in this section shall be lawful. Any person who shall falsely claim to be such relation, as above described, of a seaman under this section shall for every such offense be punished by a fine not exceeding \$500 or imprisonment not exceeding six months, at the discretion of the court.

(e) This section shall apply as well to foreign vessels while in the waters of the United States, as to vessels of the United States, and any master, owner, consignee, or agent of any foreign vessel who has violated its provisions shall be liable to the same penalty that the master, owner, or agent of a vessel of the United States would be for similar violation.

The master, owner, consignee, or agent of any vessel of the United States, or of any foreign vessel seeking clearance from a port of the United States, shall present his shipping articles at the office of clearance, and no clearance shall be granted any such vessel unless the provisions of this section have been complied with.

(f) Under the direction of the Secretary of Commerce the Commissioner of Navigation shall make regulations to carry out this section. (Acts June 26, 1884, c. 121, § 10, 23 Stat. 55; June 19, 1886, c. 421, § 3, 24 Stat. 80; Dec. 21, 1898, c. 28, § 24, 30 Stat. 763; April 26, 1904, c. 1603, § 1, 33 Stat. 308; March 4, 1915, c. 153, § 11, 38 Stat. 1168; June 5, 1920, c. 250, § 32.)

✚ § 7568. **Action for personal injury or death.**—Any seaman who shall suffer personal injury in the course of his employment may, at his election, maintain an action for damages at law, with the right of trial by jury, and in such action all statutes of the United States modifying or extending the common-law right or remedy in cases of personal injury to railway employees shall apply; and in case of the death of any seaman as a result of any such personal injury the personal representative of such seaman may maintain an action for damages at law with the right of trial by jury, and in such action all statutes of the United States conferring or regulating the right of action for death in the case of railway employees shall be applicable. Jurisdiction in such actions shall be under the court of the district in which the defendant employer resides or in which his principal office is located. (Acts March 4, 1915, c. 153, § 20, 38 Stat. 1185; June 5, 1920, c. 250, § 33.)

TITLE LVIII.

THE COAST GUARD.

CHAPTER 3.

PROVISIONS RELATING TO BOTH SERVICES.

§ 7812. **Rations.**—For rations or commutation thereof at the rate of 45 cents per ration for warrant officers, petty officers, and other enlisted men, \$853,000. (Act July 19, 1919, c. 24, § 1.)

§ 7812a. Purchase of army supplies by officers and enlisted men.—Officers and enlisted men of the Coast Guard shall be permitted to purchase quartermaster supplies from the Army, Navy, and Marine Corps at the same price as is charged the officers and enlisted men of the Army, Navy, and Marine Corps. (Act March 6, 1920, c. 94.)

§ 7812b. Commutation of rations.—For rations or commutation thereof for warrant officers, petty officers, and other enlisted men, \$245,000: Provided, That hereafter when rations for the Coast Guard are commuted they shall be commuted at a rate not to exceed the average cost of the ration for the preceding six months, as determined by the Secretary of the Treasury. (Act March 6, 1920, c. 94.)

§ 7813c. Pay, allowances, grades and ratings of officers and enlisted men.—Commissioned officers, warrant officers, petty officers, and other enlisted men of the Coast Guard shall receive the same pay, allowances, and increases as now are, herein are, or hereafter may be prescribed for corresponding grades or ratings and length of service in the Navy; and the grades and ratings of warrant officers, chief petty officers, petty officers and other enlisted persons in the Coast Guard shall be the same as in the Navy, in so far as the duties of the Coast Guard may require, with the continuance, in the Coast Guard, of the grade of surfman, whose base pay shall be \$70 per month: Provided, That the senior district superintendent, the three district superintendents next in order of seniority, the four district superintendents next below these three in order of seniority, and the junior five district superintendents shall have the rank, pay, and allowances of captain, first lieutenant, second lieutenant, and third lieutenant in the Coast Guard, respectively. (Act May 18, 1920, c. 190, § 8.)

§ 7819a. Details to officers of the Coast Guard.—Hereafter enlisted personnel of the Coast Guard shall not be detailed for duty in the office of the Coast Guard in the District of Columbia. (Act May 29, 1920, c. 214, § 1.)

§ 7819b. Draftsmen and technical services in office of the Coast Guard.—The services of skilled draftsmen, and such other technical services as the Secretary of the Treasury may deem necessary, may be employed only in the office of the Coast Guard in connection with the construction and repair of Coast Guard cutters, to be paid from the appropriation "Repairs to Coast Guard cutters": Provided, That the expenditures on this account for the fiscal year 1921 shall not exceed \$8,000. A statement of the persons employed hereunder, their duties, and the compensation paid to each shall be made to Congress each year in the annual estimates. (Act May 29, 1920, c. 214, § 1.)

Note.—The prior appropriation Act March 1, 1919, c. 86, § 1, contained a similar provision for the fiscal year 1920.

§ 7821a. Leaves of absence for officers and their employment with Venezuelan Government.—The President of the United States be, and he is hereby, authorized to grant leave of absence without pay to such officer or officers of the United States Coast Guard as he may deem advisable, and to permit him or them to accept employment with the Venezuelan Government with such compensation and emoluments as may be agreed upon between the Venezuelan Government and such officer or officers thus granted leave of absence. (Act Feb. 27, 1920, c. 88.)

§ 7821b. Oaths; deck courts.—Such commissioned and warrant officers of the Coast Guard as may be designated by the commandant of the Coast Guard are hereby authorized to administer such oaths as may be necessary in connection with recruiting and for the proper conduct of said service.

"Deck courts," to consist of one commissioned officer only, may be ordered by or under the direction of the Secretary of the Treasury for the trial of enlisted men in the Coast Guard for minor offenses now triable by Coast Guard courts; and said courts shall be governed in their organization and procedure substantially in accordance with naval "deck courts," and shall have the same power to impose punishment. (Act June 5, 1920, c. 235.)

TITLE LX.

COAST AND GEODETIC SURVEY.

§ 7870a. Director.—The Superintendent of the Coast and Geodetic Survey shall have the relative rank, pay, and allowances of a captain in the Navy, and that hereafter he shall be appointed by the President, by and with the advice and consent of the Senate, from the list of commissioned officers of the Coast and Geodetic Survey not below the rank of commander for a term of four years, and may be reappointed for further periods of four years each. (Act June 4, 1920, c. 228.)

Note.—Act June 5, 1920, c. 235, provides that "the title of 'superintendent' of the United States Coast and Geodetic Survey is hereby changed to 'director;' but this change shall not affect the status of the present incumbent or require his reappointment: Provided further, That the Secretary of Commerce may designate one of the hydrographic and geodetic engineers to act as assistant director."

§ 7870b. Commissioned officers.—In lieu of compensation now prescribed by law, commissioned officers of the Coast and Geodetic Survey shall receive the same pay and allowances as now are or hereafter may be prescribed for officers of the Navy with whom they hold relative rank as prescribed in the Act of May 22, 1917, entitled "An Act to temporarily increase the commissioned and warrant and enlisted strength of the Navy and Marine Corps, and for other purposes," including longevity; and all laws relating to the retirement of commissioned officers of the Navy shall hereafter apply to commissioned officers of the Coast and Geodetic Survey: Provided, That hereafter longevity pay for officers in the Army, Navy, Marine Corps, Coast Guard, Public Health Service, and Coast and Geodetic Survey shall be based on the total of all service in any or all of said services. (Act May 18, 1920, c. 190, § 11.)

§ 7883a. Claims for damages.—The Superintendent of the Coast and Geodetic Survey, subject to the approval of the Secretary of Commerce, is hereby authorized to consider, ascertain, adjust, and determine all claims for damages, where the amount of the claim does not exceed \$500, hereafter occasioned by acts for which the Coast and Geodetic Survey shall be found to be responsible, and report the amounts so ascertained and determined to be due the claimants to Congress at each session thereof through the Treasury Department for payment as legal claims out of appropriations that may be made by Congress therefor. (Act June 5, 1920, c. 256.)

TITLE LXI.

REGULATIONS OF INTERSTATE COMMERCE.

§ 7884. Scope of Act; definitions; rates and facilities; regulations; passes; products in which carrier is interested; switch connections and branch and new lines; interference with traffic; water transportation; pipe lines; telegraph and telephone companies; preferences; powers of Commission.—
(1) The provisions of this Act shall apply to common carriers engaged in—

(a) The transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment; or

(b) The transportation of oil or other commodity, except water and except natural or artificial gas, by pipe line, or partly by pipe line and partly by railroad or by water; or

(c) The transmission of intelligence by wire or wireless;—from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States to or from a foreign country, but only in so far as such transportation or transmission takes place within the United States.

(2) The provisions of this Act shall also apply to such transportation of passengers and property and transmission of intelligence, but only in so far as such transportation or transmission takes place within the United States, but shall not apply—

(a) To the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State and not shipped to or from a foreign country from or to any place in the United States as aforesaid;

(b) To the transmission of intelligence by wire or wireless wholly within one State and not transmitted to or from a foreign country from or to any place in the United States as aforesaid; or

(c) To the transportation of passengers or property by a carrier by water where such transportation would not be subject to the provisions of this Act except for the fact that such carrier absorbs, out of its port-to-port water rates or out of its proportional through rates, any switching, terminal, lighterage, car rental, trackage, handling, or other charges by a rail carrier for services within the switching, drayage, lighterage, or corporate limits of a port terminal or district.

(3) The term "common carrier" as used in this Act shall include all pipe-line companies; telegraph, telephone, and cable companies operating by wire or wireless; express companies; sleeping-car companies; and all persons, natural or artificial, engaged in such transportation or transmission as aforesaid as common carriers for hire. Wherever the word "carrier" is used in this Act it shall be held to mean "common carrier." The term "railroad" as used in this Act shall include all bridges, car floats, lighters, and ferries used by or operated in connection with any railroad, and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement, or lease, and also all switches, spurs, tracks, terminals, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, including all freight depots, yards, and grounds, used or necessary in the transportation or delivery of any such property. The term "transportation" as used in this Act shall include locomotives, cars, and other vehicles, vessels, and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported. The term "transmission" as used in this Act shall include the transmission of intelligence through the application of electrical energy or other use of electricity, whether by means of wire, cable, radio apparatus, or other wire or wireless conductors or appliances, and all instrumentalities and facilities for and services in connection with the receipt, forwarding, and delivery of messages, communications, or other intelligence so transmitted, hereinafter also collectively called messages.

(4) It shall be the duty of every common carrier subject to this Act engaged in the transportation of passengers or property to provide and furnish such transportation upon reasonable request therefor, and to establish through routes and just and reasonable rates, fares; and charges applicable thereto, and to provide reasonable facilities for operating through routes and to make reasonable rules and regulations with respect to the

operation of through routes, and providing for reasonable compensation to those entitled thereto; and in case of joint rates, fares, or charges, to establish just, reasonable, and equitable divisions thereof as between the carriers subject to this Act participating therein which shall not unduly prefer or prejudice any of such participating carriers.

(5) All charges made for any service rendered or to be rendered in the transportation of passengers or property or in the transmission of intelligence by wire or wireless as aforesaid, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful: Provided, That messages by wire or wireless subject to the provisions of this Act may be classified into day, night, repeated, unrepeatd, letter, commercial, press, Government, and such other classes as are just and reasonable, and different rates may be charged for the different classes of messages: And provided further, That nothing in this Act shall be construed to prevent telephone, telegraph, and cable companies from entering into contracts with common carriers for the exchange of services.

(6) It is hereby made the duty of all common carriers subject to the provisions of this Act to establish, observe, and enforce just and reasonable classifications of property for transportation, with reference to which rates, tariffs, regulations, or practices are or may be made or prescribed, and just and reasonable regulations and practices affecting classifications, rates, or tariffs, the issuance, form, and substance of tickets, receipts, and bills of lading, the manner and method of presenting, marking, packing, and delivering property for transportation, the facilities for transportation, the carrying of personal, sample, and excess baggage, and all other matters relating to or connected with the receiving, handling, transporting, storing, and delivery of property subject to the provisions of this Act which may be necessary or proper to secure the safe and prompt receipt, handling, transportation, and delivery of property subject to the provisions of this Act upon just and reasonable terms, and every unjust and unreasonable classification, regulation, and practice is prohibited and declared to be unlawful.

(7) No common carrier subject to the provisions of this Act shall, after January first, nineteen hundred and seven, directly or indirectly, issue or give any interstate free ticket, free pass, or free transportation for passengers, except to its employees and their families, its officers, agents, surgeons, physicians, and attorneys at law; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Homes, including those about to enter and those returning home after discharge; to necessary care takers of live stock, poultry, milk, and fruit; to employees on sleeping cars, express cars, and to linemen of telegraph and telephone companies; to Railway Mail Service employees, post-office inspectors, customs inspectors, and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the common carrier is interested, persons injured in wrecks and physicians and nurses attending such persons: Provided, That this provision shall not be construed to prohibit the interchange of passes for the officers, agents, and employees of common carriers, and their families; nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation: And provided further, That this provision shall not be construed to prohibit the privilege of passes or franks, or the exchange thereof with each other, for the officers, agents, employees, and their families of such telegraph, telephone and cable line, and the officers, agents, employees and their families of other common carriers subject to the provisions of this Act: Provided further, That the term "employees" as used in this paragraph shall include furloughed, pensioned, and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, and the remains of a person killed in the employment of a carrier and ex-em-

ployees traveling for the purpose of entering the service of any such common carrier; and the term "families" as used in this paragraph shall include the families of those persons named in this proviso, also the families of persons killed, and the widows during widowhood and minor children during minority of persons who died, while in the service of any such common carrier. Any common carrier violating this provision shall be deemed guilty of a misdemeanor and for each offense, on conviction, shall pay to the United States a penalty of not less than one hundred dollars nor more than two thousand dollars, and any person, other than the persons excepted in this provision, who uses any such interstate free ticket, free pass, or free transportation shall be subject to a like penalty. Jurisdiction of offenses under this provision shall be the same as that provided for offenses in an Act entitled "An Act to further regulate commerce with foreign nations and among the States," approved February nineteen, nineteen hundred and three [§§ 7921, 7922, 7923, this Code], and any amendment thereof.

(8) From and after May first, nineteen hundred and eight, it shall be unlawful for any railroad company to transport from any State, Territory, or the District of Columbia, to any other State, Territory, or the District of Columbia, or to any foreign country, any article or commodity, other than timber and the manufactured products thereof, manufactured, mined, or produced by it, or under its authority, or which it may own in whole or in part, or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary and intended for its use in the conduct of its business as a common carrier.

(9) Any common carrier subject to the provisions of this Act, upon application of any lateral, branch line of railroad, or of any shipper tendering interstate traffic for transportation, shall construct, maintain, and operate upon reasonable terms a switch connection with any such lateral, branch line of railroad, or private side track which may be constructed to connect with its railroad, where such connection is reasonably practicable and can be put in with safety and will furnish sufficient business to justify the construction and maintenance of the same and shall furnish cars for the movement of such traffic to the best of its ability without discrimination in favor of or against any such shipper. If any common carrier shall fail to install and operate any such switch or connection as aforesaid, on application therefor in writing by any shipper or owner of such lateral, branch line or railroad, such shipper or owner of such lateral, branch line of railroad may make complaint to the commission, as provided in section thirteen of this Act, and the commission shall hear and investigate the same and shall determine as to the safety and practicability thereof and justification and reasonable compensation therefor, and the commission may make an order, as provided in section fifteen of this Act, directing the common carrier to comply with the provisions of this section in accordance with such order, and such order shall be enforced as hereinafter provided for the enforcement of all other orders by the commission, other than orders for the payment of money.

(10) The term "car service" in this Act shall include the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, and other vehicles used in the transportation of property, including special types of equipment, and the supply of trains, by any carrier by railroad subject to this Act.

(11) It shall be the duty of every carrier by railroad subject to this Act to furnish safe and adequate car service and to establish, observe, and enforce just and reasonable rules, regulations, and practices with respect to car service; and every unjust and unreasonable rule, regulation, and practice with respect to car service is prohibited and declared to be unlawful.

(12) It shall also be the duty of every carrier by railroad to make just and reasonable distribution of cars for transportation of coal among the coal mines served by it, whether located upon its line or lines or customarily dependent upon it for car supply. During any period when the supply of cars available for such service does not equal the requirements of such mines it shall be the duty of the carrier to maintain and apply just and reasonable ratings of such mines and to count each and every car furnished to or used by any such mine for transportation of coal against the mine. Failure or refusal so to do shall be unlawful, and in respect of each car not so counted shall be deemed a separate offense, and the carrier, receiver,

or operating trustee so failing or refusing shall forfeit to the United States the sum of \$100 for each offense, which may be recovered in a civil action brought by the United States.

(13) The Commission is hereby authorized by general or special orders to require all carriers by railroad subject to this Act, or any of them, to file with it from time to time their rules and regulations with respect to car service, and the Commission may, in its discretion, direct that such rules and regulations shall be incorporated in their schedules showing rates, fares, and charges for transportation, and be subject to any or all of the provisions of this Act relating thereto.

(14) The Commission may, after hearing, on a complaint or upon its own initiative without complaint, establish reasonable rules, regulations, and practices with respect to car service by carriers by railroad subject to this Act, including the compensation to be paid for the use of any locomotive, car, or other vehicle not owned by the carrier using it, and the penalties or other sanctions for nonobservance of such rules, regulations or practices.

(15) Whenever the Commission is of opinion that shortage of equipment, congestion of traffic, or other emergency, requiring immediate action exists in any section of the country, the Commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, if it so orders, without answer or other formal pleading by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the Commission may determine: (a) to suspend the operation of any or all rules, regulations, or practices then established with respect to car service for such time as may be determined by the Commission; (b) to make such just and reasonable directions with respect to car service without regard to the ownership as between carriers of locomotives, cars, and other vehicles, during such emergency as in its opinion will best promote the service in the interest of the public and the commerce of the people, upon such terms of compensation as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable; (c) to require such joint or common use of terminals, including main-line track or tracks for a reasonable distance outside of such terminals, as in its opinion will best meet the emergency and serve the public interest, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable; and (d) to give directions for preference or priority in transportation, embargoes, or movement of traffic under permits, at such time and for such periods as it may determine, and to modify, change, suspend, or annul them. In time of war or threatened war the President may certify to the Commission that it is essential to the national defense and security that certain traffic shall have preference or priority in transportation, and the Commission shall, under the power herein conferred, direct that such preference or priority be afforded.

(16) Whenever the Commission is of opinion that any carrier by railroad subject to this Act is for any reason unable to transport the traffic offered it so as properly to serve the public, it may, upon the same procedure as provided in paragraph (15), make such just and reasonable directions with respect to the handling, routing, and movement of the traffic of such carrier and its distribution over other lines of roads, as in the opinion of the Commission will best promote the service in the interest of the public and the commerce of the people, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable.

(17) The directions of the Commission as to car service and to the matters referred to in paragraphs (15) and (16) may be made through and by such agents or agencies as the Commission shall designate and appoint for that purpose. It shall be the duty of all carriers by railroad subject to this Act, and of their officers, agents, and employees, to obey strictly and conform promptly to such orders or directions of the Commission, and in case of failure or refusal on the part of any carrier, receiver, or operating trustee to comply with any such order or direction such carrier, receiver,

or trustee shall be liable to a penalty of not less than \$100 nor more than \$500 for each such offense and \$50 for each and every day of the continuance of such offense, which shall accrue to the United States and may be recovered in a civil action brought by the United States: Provided, however, That nothing in this Act shall impair or affect the right of a State, in the exercise of its police power, to require just and reasonable freight and passenger service for intrastate business, except in so far as such requirement is inconsistent with any lawful order of the Commission made under the provisions of this Act.

(18) After ninety days after this paragraph takes effect no carrier by railroad subject to this Act shall undertake the extension of its line of railroad, or the construction of a new line of railroad, or shall acquire or operate any line of railroad, or extension thereof, or shall engage in transportation under this Act over or by means of such additional or extended line of railroad, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line of railroad, and no carrier by railroad subject to this Act shall abandon all or any portion of a line of railroad, or the operation thereof, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity permit of such abandonment.

(19) The application for and issuance of any such certificate shall be under such rules and regulations as to hearings and other matters as the Commission may from time to time prescribe, and the provisions of this Act shall apply to all such proceedings. Upon receipt of any application for such certificate the Commission shall cause notice thereof to be given to and a copy filed with the governor of each State in which such additional or extended line of railroad is proposed to be constructed or operated, or all or any portion of a line of railroad, or the operation thereof, is proposed to be abandoned, with the right to be heard as hereinafter provided with respect to the hearing of complaints or the issuance of securities; and said notice shall also be published for three consecutive weeks in some newspaper of general circulation in each county in or through which said line of railroad is constructed or operates.

(20) The Commission shall have power to issue such certificate as prayed for, or to refuse to issue it, or to issue it for a portion or portions of a line of railroad, or extension thereof, described in the application, or for the partial exercise only of such right or privilege, and may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require. From and after issuance of such certificate, and not before, the carrier by railroad may, without securing approval other than such certificate, comply with the terms and conditions contained in or attached to the issuance of such certificate and proceed with the construction, operation, or abandonment covered thereby. Any construction, operation, or abandonment contrary to the provisions of this paragraph or of paragraph (18) or (19) of this section may be enjoined by any court of competent jurisdiction at the suit of the United States, the Commission, any commission or regulating body of the State or States affected, or any party in interest; and any carrier which, or any director, officer, receiver, operating trustee, lessee, agent, or person, acting for or employed by such carrier, who knowingly authorizes, consents to, or permits any violation of the provisions of this paragraph or of paragraph (18) of this section, shall upon conviction thereof be punished by a fine of not more than \$5,000 or by imprisonment for not more than three years, or both.

(21) The Commission may, after hearing, in a proceeding upon complaint or upon its own initiative without complaint, authorize or require by order any carrier by railroad subject to this Act, party to such proceeding, to provide itself with safe and adequate facilities for performing as a common carrier its car service as that term is used in this Act, and to extend its line or lines: Provided, That no such authorization or order shall be made unless the Commission finds, as to such extension, that it is reasonably required in the interest of public convenience and necessity, or as to such extension or facilities that the expense involved therein will

not impair the ability of the carrier to perform its duty to the public. Any carrier subject to this Act which refuses or neglects to comply with any order of the Commission made in pursuance of this paragraph shall be liable to a penalty of \$100 for each day during which such refusal or neglect continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(22) The authority of the Commission conferred by paragraphs (18) to (21), both inclusive, shall not extend to the construction or abandonment of spur, industrial, team, switching or side tracks, located or to be located wholly within one State, or of street, suburban, or interurban electric railways, which are not operated as a part or parts of a general steam railroad system of transportation.

(23) On and after the approval of this Act any person or persons who shall, during the war in which the United States is now engaged, knowingly and willfully, by physical force or intimidation by threats of physical force obstruct or retard, or aid in obstructing or retarding, the orderly conduct or movement in the United States of interstate or foreign commerce, or the orderly make-up or movement or disposition of any train, or the movement or disposition of any locomotive, car, or other vehicle on any railroad or elsewhere in the United States engaged in interstate or foreign commerce shall be deemed guilty of a misdemeanor, and for every such offense shall be punishable by a fine of not exceeding \$100 or by imprisonment for not exceeding six months, or by both such fine and imprisonment; and the President of the United States is hereby authorized, whenever in his judgment the public interest requires, to employ the armed forces of the United States to prevent any such obstruction or retardation of the passage of the mail, or of the orderly conduct or movement of interstate or foreign commerce in any part of the United States, or of any train, locomotive, car, or other vehicle upon any railroad or elsewhere in the United States engaged in interstate or foreign commerce: Provided, That nothing in this section shall be construed to repeal, modify, or affect either section six or section twenty of an Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October fifteenth, nineteen hundred and fourteen.

(24) During the continuance of the war in which the United States is now engaged the President is authorized, if he finds it necessary for the national defense and security, to direct that such traffic or such shipments of commodities as, in his judgment, may be essential to the national defense and security shall have preference or priority in transportation by any common carrier by railroad, water, or otherwise. He may give these directions at and for such times as he may determine, and may modify, change, suspend, or annul them, and for any such purpose he is hereby authorized to issue orders direct, or through such person or persons as he may designate for the purpose or through the Interstate Commerce Commission. Officials of the United States, when so designated, shall receive no compensation for their services rendered hereunder. Persons not in the employ of the United States so designated shall receive such compensation as the President may fix. Suitable offices may be rented and all necessary expenses, including compensation of persons so designated, shall be paid as directed by the President out of funds which may have been or may be provided to meet expenditures for the national security and defense. The common carriers subject to the Act to regulate commerce or as many of them as desire so to do are hereby authorized without responsibility or liability on the part of the United States, financial or otherwise, to establish and maintain in the city of Washington during the period of the war an agency empowered by such carriers as join in the arrangement to receive on behalf of them all notice and service of such orders and directions as may be issued in accordance with this Act, and service upon such agency shall be good service as to all the carriers joining in the establishment thereof. And it shall be the duty of any and all the officers, agents, or employees of such carriers by railroad or water or otherwise to obey strictly and conform promptly to such orders, and failure knowingly and willfully to comply therewith, or to do or perform whatever is necessary to the prompt execution of such order, shall render such officers, agents, or employees guilty of a misdemeanor, and any such officer, agent or employee shall, upon conviction, be fined not more than \$5,000, or imprisoned not more

than one year, or both, in the discretion of the court. For the transportation of persons or property in carrying out the orders and directions of the President, just and reasonable rates shall be fixed by the Interstate Commerce Commission; and if the transportation be for the Government of the United States, it shall be paid for currently or monthly by the Secretary of the Treasury out of any funds not otherwise appropriated. Any carrier complying with any such order or direction for preference or priority herein authorized shall be exempt from any and all provisions in existing law imposing civil or criminal pains, penalties, obligations, or liabilities upon carriers by reason of giving preference or priority in compliance with such order or direction. (Acts Feb. 4, 1887, c. 104, § 1, 24 Stat. 379; June 29, 1906, c. 3591, § 1, 34 Stat. 584; April 13, 1908, c. 143, 35 Stat. 60; June 18, 1910, c. 309, § 7, 36 Stat. 544; May 29, 1917, c. 23, 40 Stat. 101; Aug. 10, 1917, c. 51, 40 Stat. 272; Feb. 28, 1920, c. 91, §§ 400-403.)

Note 1.—Act Feb. 17, 1917, c. 84, 39 Stat. 922, provides that nothing in the Act to regulate commerce "shall be so construed by the Interstate Commerce Commission, or by the courts, as to prevent the lessee of the Cincinnati Southern Railway from complying with its obligation assumed in leasing said railway to furnish free transportation to the trustees of said Cincinnati Southern Railway, their officers and agents: Provided, That the free transportation referred to shall be furnished only when persons entitled thereto are traveling on the business of the company."

Note 2.—The first and second sections of Act Feb. 28, 1920, c. 91, cited above, provides that "this Act may be cited as the 'Transportation Act, 1920.' When used in this Act the term 'Interstate Commerce Act' means the Act entitled 'An Act to regulate commerce,' approved February 4, 1887, as amended; the term 'Commerce Court Act' means the Act entitled 'An Act to create a commerce court, and to amend an Act entitled 'An Act to regulate commerce,' approved February 4, 1887, as heretofore amended, and for other purposes,' approved June 18, 1910; the term 'Federal Control Act' means the Act entitled 'An Act to provide for the operation of transportation systems while under Federal Control, for the just compensation of their owners, and for other purposes,' approved March 21, 1918, as amended; the term 'Federal control' means the possession, use, control, and operation of railroads and systems of transportation, taken over or assumed by the President under section 1 of the Act entitled 'An Act making appropriations for the support of the Army for the fiscal year ending June 30, 1917, and for other purposes,' approved August 29, 1916, or under the Federal Control Act; and the term 'Commission' means the Interstate Commerce Commission." The remainder of Act Feb. 28, 1920, c. 91, is found in §§ 7884-7890, 7895, 7897, 7902-7905, 7907, 7908, 7913, 7916, 7916a, 7920-7920e, 7967, 7976, 8088a-8088q, 10169a-10169i.

Note.—§ 13, Act Feb. 4, 1887, c. 104, is now § 7902.

§ 7885. Special rates and rebates.—If any common carrier subject to the provisions of this Act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property or the transmission of intelligence, subject to the provisions of this Act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation or transmission of a like kind of traffic or message under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful. (Acts Feb. 4, 1887, c. 104, § 2, 24 Stat. 379; Feb. 28, 1920, c. 91, § 404.)

§ 7886. Preferences; payment of charges on delivery of goods; equal facilities to connecting lines; terminal facilities excepted.—(1) It shall be unlawful for any common carrier subject to the provisions of this Act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(2) From and after July 1, 1920, no carrier by railroad subject to the provisions of this Act shall deliver or relinquish possession at destination of any freight transported by it until all tariff rates and charges thereon have been paid, except under such rules and regulations as the Commission may from time to time prescribe to assure prompt payment of all such rates and charges and to prevent unjust discrimination: Provided, That

the provisions of this paragraph shall not be construed to prohibit any carrier from extending credit in connection with rates and charges on freight transported for the United States, for any department, bureau, or agency thereof, or for any State or Territory or political subdivision thereof, or for the District of Columbia.

(3) All carriers, engaged in the transportation of passengers or property, subject to the provisions of this Act, shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers or property to and from their several lines and those connecting therewith, and shall not discriminate in their rates, fares, and charges between such connecting lines, or unduly prejudice any such connecting line in the distribution of traffic that is not specifically routed by the shipper.

(4) If the Commission finds it to be in the public interest and to be practicable, without substantially impairing the ability of a carrier owning or entitled to the enjoyment of terminal facilities to handle its own business, it shall have power to require the use of any such terminal facilities, including main line track or tracks for a reasonable distance outside of such terminal, of any carrier, by another carrier or other carriers, on such terms and for such compensation as the carriers affected may agree upon, or, in the event of a failure to agree, as the Commission may fix as just and reasonable for the use so required, to be ascertained on the principle controlling compensation in condemnation proceedings. Such compensation shall be paid or adequately secured before the enjoyment of the use may be commenced. If under this paragraph the use of such terminal facilities of any carrier is required to be given to another carrier or other carriers, and the carrier whose terminal facilities are required to be so used is not satisfied with the terms fixed for such use, or if the amount of compensation so fixed is not duly and promptly paid, the carrier whose terminal facilities have thus been required to be given to another carrier or other carriers shall be entitled to recover, by suit or action against such other carrier or carriers, proper damages for any injuries sustained by it as the result of compliance with such requirement, or just compensation for such use, or both, as the case may be. (Acts Feb. 4, 1887, c. 104, § 3, 24 Stat. 380; Feb. 28, 1920, c. 91, § 405.)

§ 7887. Long and short hauls; water competition.—(1) It shall be unlawful for any common carrier subject to the provisions of this Act to charge or receive any greater compensation in the aggregate for the transportation of passengers, or of like kind of property, for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates subject to the provisions of this Act, but this shall not be construed as authorizing any common carrier within the terms of this Act to charge or receive as great compensation for a shorter as for a longer distance: Provided, That upon application to the Commission such common carrier may in special cases, after investigation, be authorized by the Commission to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section; but in exercising the authority conferred upon it in this proviso the Commission shall not permit the establishment of any charge to or from the more distant point that is not reasonably compensatory for the service performed; and if a circuitous rail line or route is, because of such circuitry, granted authority to meet the charges of a more direct line or route to or from competitive points and to maintain higher charges to or from intermediate points on its line, the authority shall not include intermediate points as to which the haul of the petitioning line or route is not longer than that of the direct line or route between the competitive points; and no such authorization shall be granted on account of merely potential water competition not actually in existence: And provided further, That rates, fares, or charges existing at the time of the passage of this amendatory Act by virtue of orders of the Commission or as to which application has theretofore been filed with

the Commission and not yet acted upon, shall not be required to be changed by reason of the provisions of this section until the further order of or a determination by the Commission.

(2) Wherever a carrier by railroad shall in competition with a water route or routes reduce the rates on the carriage of any species of freight to or from competitive points it shall not be permitted to increase such rates unless after hearing by the Commission it shall be found that such proposed increase rests upon changed conditions other than the elimination of water competition. (Acts Feb. 4, 1887, c. 104, § 4, 24 Stat. 380; June 18, 1910, c. 309, § 8, 36 Stat. 547; Feb. 28, 1920, c. 91, § 406.)

§ 7888. Pooling; division of traffic or earnings; interest in competing carrier; consolidation of ownership or control; holding company; express companies; division of railways into systems; regulation of competition.—

(1) Except upon specific approval by order of the Commission as in this section provided, and except as provided in paragraph (16) of section 1 of this Act, it shall be unlawful for any common carrier subject to this Act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid each day of its continuance shall be deemed a separate offense: Provided, That whenever the Commission is of opinion, after hearing upon application of any carrier or carriers engaged in the transportation of passengers or property subject to this Act, or upon its own initiative, that the division of their traffic or earnings, to the extent indicated by the Commission, will be in the interest of better service to the public, or economy in operation, and will not unduly restrain competition, the Commission shall have authority by order to approve and authorize, if assented to by all the carriers involved, such division of traffic or earnings, under such rules and regulations, and for such consideration as between such carriers and upon such terms and conditions, as shall be found by the Commission to be just and reasonable in the premises.

(2) Whenever the Commission is of opinion, after hearing, upon application of any carrier or carriers engaged in the transportation of passengers or property subject to this Act, that the acquisition, to the extent indicated by the Commission, by one of such carriers of the control of any other such carrier or carriers either under a lease or by the purchase of stock or in any other manner not involving the consolidation of such carriers into a single system for ownership and operation, will be in the public interest, the Commission shall have authority by order to approve and authorize such acquisition, under such rules and regulations and for such consideration and on such terms and conditions as shall be found by the Commission to be just and reasonable in the premises.

(3) The Commission may from time to time, for good cause shown, make such orders, supplemental to any order made under paragraph (1) or (2), as it may deem necessary or appropriate.

(4) The Commission shall as soon as practicable prepare and adopt a plan for the consolidation of the railway properties of the continental United States into a limited number of systems. In the division of such railways into such systems under such plan, competition shall be preserved as fully as possible and wherever practicable the existing routes and channels of trade and commerce shall be maintained. Subject to the foregoing requirements, the several systems shall be so arranged that the cost of transportation as between competitive systems and as related to the values of the properties through which the service is rendered shall be the same, so far as practicable, so that these systems can employ uniform rates in the movement of competitive traffic and under efficient management earn substantially the same rate of return upon the value of their respective railway properties.

(5) When the Commission has agreed upon a tentative plan, it shall give the same due publicity and upon reasonable notice, including notice to the Governor of each State, shall hear all persons who may file or present objections thereto. The Commission is authorized to prescribe a procedure for such hearings and to fix a time for bringing them to a close. After

the hearings are at an end, the Commission shall adopt a plan for such consolidation and publish the same; but it may at any time thereafter, upon its own motion or upon application, reopen the subject for such changes or modifications as in its judgment will promote the public interest. The consolidations herein provided for shall be in harmony with such plan.

(6) It shall be lawful for two or more carriers by railroad, subject to this Act, to consolidate their properties or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership, management, and operation, under the following conditions:

(a) The proposed consolidation must be in harmony with and in furtherance of the complete plan of consolidation mentioned in paragraph (5) and must be approved by the Commission;

(b) The bonds at par of the corporation which is to become the owner of the consolidated properties, together with the outstanding capital stock at par of such corporation, shall not exceed the value of the consolidated properties as determined by the Commission. The value of the properties sought to be consolidated shall be ascertained by the Commission under section 19a of this Act, and it shall be the duty of the Commission to proceed immediately to the ascertainment of such value for the properties involved in a proposed consolidation upon the filing of the application for such consolidation.

(c) Whenever two or more carriers propose a consolidation under this section, they shall present their application therefor to the Commission, and thereupon the Commission shall notify the Governor of each State in which any part of the properties sought to be consolidated is situated and the carriers involved in the proposed consolidation, of the time and place for a public hearing. If after such hearing the Commission finds that the public interest will be promoted by the consolidation and that the conditions of this section have been or will be fulfilled, it may enter an order approving and authorizing such consolidation, with such modifications and upon such terms and conditions as it may prescribe, and thereupon such consolidation may be effected, in accordance with such order, if all the carriers involved assent thereto, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

(7) The power and authority of the Commission to approve and authorize the consolidation of two or more carriers shall extend and apply to the consolidation of four express companies into the American Railway Express Company, a Delaware corporation, if application for such approval and authority is made to the Commission within thirty days after the passage of this amendatory Act; and pending the decision of the Commission such consolidation shall not be dissolved.

(8) The carriers affected by any order made under the foregoing provisions of this section and any corporation organized to effect a consolidation approved and authorized in such order shall be, and they are hereby, relieved from the operation of the "anti-trust laws," as designated in section 1 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, and of all other restraints or prohibitions by law, State or Federal, in so far as may be necessary to enable them to do anything authorized or required by any order made under and pursuant to the foregoing provisions of this section.

(9) From and after the first day of July, nineteen hundred and fourteen, it shall be unlawful for any railroad company or other common carrier subject to the Act to regulate commerce to own, lease, operate, control, or have any interest whatsoever (by stock ownership or otherwise, either directly, indirectly, through any holding company, or by stockholders or directors in common, or in any other manner) in any common carrier by water operated through the Panama Canal or elsewhere with which said railroad or other carrier aforesaid does or may compete for traffic or any vessel carrying freight or passengers upon said water route or elsewhere with which said railroad or other carrier aforesaid does or may compete for traffic, and in case of the violation of this provision each day in which such violation continues shall be deemed a separate offense.

(10) Jurisdiction is hereby conferred on the Interstate Commerce Commission to determine questions of fact as to the competition or possibility

of competition, after full hearing, on the application of any railroad company or other carrier. Such application may be filed for the purpose of determining whether any existing service is in violation of this section and pray for an order permitting the continuance of any vessel or vessels already in operation, or for the purpose of asking an order to install new service not in conflict with the provisions of this paragraph. The commission may on its own motion or the application of any shipper institute proceedings to inquire into the operation of any vessel in use by any railroad or other carrier which has not applied to the commission and had the question of competition or the possibility of competition determined as herein provided. In all such cases the order of said commission shall be final.

(11) If the Interstate Commerce Commission shall be of the opinion that any such existing specified service by water other than through the Panama Canal is being operated in the interest of the public and is of advantage to the convenience and commerce of the people, and that such extension will neither exclude, prevent, nor reduce competition on the route by water under consideration, the Interstate Commerce Commission may, by order, extend the time during which such service by water may continue to be operated beyond July first, nineteen hundred and fourteen. In every case of such extension the rates, schedules, and practices of such water carrier shall be filed with the Interstate Commerce Commission and shall be subject to the Act to regulate commerce and all amendments thereto in the same manner and to the same extent as is the railroad or other common carrier controlling such water carrier or interested in any manner in its operation: Provided, Any application for extension under the terms of this provision filed with the Interstate Commerce Commission prior to July first, nineteen hundred and fourteen, but for any reason not heard and disposed of before said date, may be considered and granted thereafter. (Acts Feb. 4, 1887, c. 104, § 5, 24 Stat. 380; Aug. 24, 1912, c. 390, § 11, 37 Stat. 567; Feb. 28, 1920, c. 91, § 408.)

Note.—§ 1 of Act Feb. 4, 1887, c. 104, is now § 7884.

§ 7889. This section was incorporated into § 7888 by Act Feb. 28, 1920, c. 91, § 408.

§ 7890. Schedules of rates; changes; traffic contracts; military traffic; posting name of local agent; Panama Canal; dock connection; rates to and from ports; agreements with water carriers.—(1) Every common carrier subject to the provisions of this Act shall file with the Commission created by this Act and print and keep open to public inspection schedules showing all the rates, fares, and charges for transportation between different points on its own route and between points on its own route and points on the route of any other carrier by railroad, by pipe line, or by water when a through route and joint rate have been established. If no joint rate over the through route has been established, the several carriers in such through route shall file, print and keep open to public inspection as aforesaid, the separately established rates, fares and charges applied to the through transportation. The schedules printed as aforesaid by any such common carrier shall plainly state the places between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately all terminal charges, storage charges, icing charges, and all other charges which the Commission may require, all privileges or facilities granted or allowed and any rules or regulations which in anywise change, affect, or determine any part or the aggregate of such aforesaid rates, fares, and charges, or the value of the service rendered to the passenger, shipper, or consignee. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be kept posted in two public and conspicuous places in every depot, station, or office of such carrier where passengers or freight, respectively, are received for transportation, in such form that they shall be accessible to the public and can be conveniently inspected. The provisions of this section shall apply to all traffic, transportation, and facilities defined in this Act.

(2) Any common carrier subject to the provisions of this Act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep open to public inspection, at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged

by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States the through rate on which shall not have been made public, as required by this Act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production.

(3) No change shall be made in the rates, fares, and charges or joint rates, fares, and charges which have been filed and published by any common carrier in compliance with the requirements of this section, except after thirty days' notice to the commission and to the public published as aforesaid, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection: Provided, That the Commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified, or modify the requirements of this section in respect to publishing, posting, and filing of tariffs, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions: Provided further, That the Commission is hereby authorized to make suitable rules and regulations for the simplification of schedules of rates, fares, charges, and classifications and to permit in such rules and regulations the filing of an amendment of or change in any rate, fare, charge, or classification without filing complete schedules covering rates, fares, charges or classifications not changed if, in its judgment, not inconsistent with the public interest.

(4) The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the Commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the Commission, and where such evidence of concurrence or acceptance is filed it shall not be necessary for the carriers filing the same to also file copies of the tariffs in which they are named as parties.

(5) Every common carrier subject to this Act shall also file with said Commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this Act to which it may be a party.

(6) The Commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged and may change the form from time to time as shall be found expedient.

(7) No carrier, unless otherwise provided by this Act, shall engage or participate in the transportation of passengers or property, as defined in this Act, unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this Act; nor shall any carrier charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or property, or for any service in connection therewith, between the points named in such tariffs than the rates, fares, and charges which are specified in the tariff filed and in effect at the time; nor shall any carrier refund or remit in any manner or by any device any portion of the rates, fares, and charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property, except such as are specified in such tariffs.

(8) That in time of war or threatened war preference and precedence shall, upon demand of the President of the United States, be given over all other traffic for the transportation of troops and material of war, and carriers shall adopt every means within their control to facilitate and expedite the military traffic. And in time of peace shipments consigned to agents of the United States for its use shall be delivered by the carriers as promptly as possible and without regard to any embargo that may have been declared, and no such embargo shall apply to shipments so consigned.

(9) The commission may reject and refuse to file any schedule that is tendered for filing which does not provide and give lawful notice of its

effective date, and any schedule so rejected by the commission shall be void and its use shall be unlawful.

(10) In case of failure or refusal on the part of any carrier, receiver, or trustee to comply with the terms of any regulation adopted and promulgated or any order made by the Commission under the provisions of this section, such carrier, receiver, or trustee shall be liable to a penalty of five hundred dollars for each such offense, and twenty-five dollars for each and every day of the continuance of such offense, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(11) If any common carrier subject to the provisions of this Act after written request made upon the agent of such carrier hereinafter in this section referred to, by any person or company for a written statement of the rate or charge applicable to a described shipment between stated places under the schedules or tariffs to which such carrier is a party, shall refuse or omit to give such written statement within a reasonable time, or shall misstate in writing the applicable rate, and if the person or company making such request suffers damage in consequence of such refusal or omission or in consequence of the misstatement of the rate, either through making the shipment over a line or route for which the proper rate is higher than the rate over another available line or route, or through entering into any sale or other contract whereunder such person or company obligates himself or itself to make such shipment of freight at his or its cost, then the said carrier shall be liable to a penalty of two hundred and fifty dollars, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(12) It shall be the duty of every carrier by railroad to keep at all times conspicuously posted in every station where freight is received for transportation the name of an agent resident in the city, village, or town where such station is located, to whom application may be made for the information by this section required to be furnished on written request; and in case any carrier shall fail at any time to have such name so posted in any station, it shall be sufficient to address such request in substantially the following form: "The Station Agent of the _____ Company at _____ Station," together with the name of the proper post office, inserting the name of the carrier company and of the station in the blanks, and to serve the same by depositing the request so addressed, with postage thereon prepaid, in any post office.

(13) When property may be or is transported from point to point in the United States by rail and water through the Panama Canal or otherwise, the transportation being by a common carrier or carriers, and not entirely within the limits of a single State, the Interstate Commerce Commission shall have jurisdiction of such transportation and of the carriers, both by rail and by water, which may or do engage in the same, in the following particulars, in addition to the jurisdiction given by the Act to regulate commerce, as amended June eighteenth, nineteen hundred and ten.

(a) To establish physical connection between the lines of the rail carrier and the dock at which interchange of passenger or property is to be made by directing the rail carrier to make suitable connection between its line and a track or tracks which have been constructed from the dock to the limits of the railroad right of way, or by directing either or both the rail and water carrier, individually or in connection with one another, to construct and connect with the lines of the rail carrier a track or tracks to the dock. The Commission shall have full authority to determine and prescribe the terms and conditions upon which these connecting tracks shall be operated, and it may, either in the construction or the operation of such tracks, determine what sum shall be paid to or by either carrier: Provided, That construction required by the Commission under the provisions of this paragraph shall be subject to the same restrictions as to findings of public convenience and necessity and other matters as is construction required under section 1 of this Act.

(b) To establish through routes and maximum joint rates between and over such rail and water lines, and to determine all the terms and conditions under which such lines shall be operated in the handling of the traffic embraced.

(c) To establish proportional rates or maximum or minimum, or maximum and minimum proportional rates, by rail to and from the ports to which

the traffic is brought, or from which it is taken by the water carrier, and to determine to what traffic and in connection with what vessels and upon what terms and conditions such rates shall apply. By proportional rates are meant those which differ from the corresponding local rates to and from the port and which apply only to traffic which has been brought to the port or is carried from the port by a common carrier by water.

(d) If any rail carrier subject to the Act to regulate commerce enters into arrangements with any water carrier operating from a port in the United States to a foreign country, through the Panama Canal or otherwise, for the handling of through business between interior points of the United States and such foreign country, the Interstate Commerce Commission may require such railway to enter into similar arrangements with any or all other lines of steamships operating from said port to the same foreign country. (Acts Feb. 4, 1887, c. 104, § 6, 24 Stat. 380; March 2, 1889, c. 382, § 1, 25 Stat. 855; June 29, 1906, c. 3591, § 2, 34 Stat. 586; June 18, 1910, c. 309, § 9, 36 Stat. 548; Aug. 24, 1912, c. 390, § 11, 37 Stat. 568; Aug. 29, 1916, c. 417, 39 Stat. 604; Feb. 28, 1920, c. 91, §§ 409-413.)

Note.—§ 1 of Act Feb. 4, 1887, c. 104, is now § 7884.

§ 7895. Offenses and penalties.—(1) Any common carrier subject to the provisions of this Act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, who, alone or with any other corporation, company, person, or party, shall willfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter, or thing in this Act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this Act required to be done, or shall cause or willingly suffer or permit any act, matter, or thing so directed or required by this Act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this Act for which no penalty is otherwise provided, or who shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed, be subject to a fine of not to exceed five thousand dollars for each offense: Provided, That if the offense for which any person shall be convicted as aforesaid shall be an unlawful discrimination in rates, fares, or charges for the transportation of passengers or property, or the transmission of intelligence, such person shall, in addition to the fine hereinbefore provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court.

(2) Any common carrier subject to the provisions of this Act, or, whenever such common carrier is a corporation, any officer or agent thereof, or any person acting for or employed by such corporation, who, by means of false billing, false classification, false weighing, or false report of weight, or by any other device or means, shall knowingly and willfully assist, or shall willingly suffer or permit, any person or persons to obtain transportation for property at less than the regular rates then established and in force on the line of transportation of such common carrier, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense.

(3) Any person, corporation, or company, or any agent or officer thereof, who shall deliver property for transportation to any common carrier subject to the provisions of this Act, or for whom, as consignor or consignee, any such carrier shall transport property, who shall knowingly and willfully, directly or indirectly, himself or by employee, agent, officer, or otherwise, by false billing, false classification, false weighing, false representation of the contents of the package or the substance of the property, false report of weight, false statement, or, by any other device or means, whether with or without the consent or connivance of the carrier, its agent, or officer, obtain or attempt to obtain transportation for such property at less than the regular rates then established and in force on the line of transporta-

tion; or who shall knowingly and willfully, directly or indirectly, himself or by employee, agent, officer, or otherwise, by false statement or representation as to cost, value, nature, or extent of injury, or by the use of any false bill, bill of lading, receipt, voucher, roll, account, clam, certificate, affidavit, or deposition, knowing the same to be false, fictitious, or fraudulent, or to contain any false, fictitious, or fraudulent statement or entry, obtain or attempt to obtain any allowance, refund, or payment for damage or otherwise in connection with or growing out of the transportation of or agreement to transport such property, whether with or without the consent or connivance of the carrier, whereby the compensation of such carrier for such transportation, either before or after payment, shall in fact be made less than the regular rates then established and in force on the line of transportation, shall be deemed guilty of fraud, which is hereby declared to be a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was wholly or in part committed, be subject for each offense to a fine of not exceeding five thousand dollars or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court: Provided, That the penalty of imprisonment shall not apply to artificial persons.

(4) If any such person, or any officer or agent of any such corporation or company, shall, by payment of money or other thing of value, solicitation, or otherwise, induce or attempt to induce any common carrier subject to the provisions of this Act, or any of its officers or agents, to discriminate unjustly in his, its, or their favor as against any other consignor or consignee in the transportation of property, or shall aid or abet any common carrier in any such unjust discrimination, such person or such officer or agent of such corporation or company shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense; and such person, corporation, or company shall also, together with said common carrier, be liable, jointly or severally, in an action to be brought by any consignor or consignee discriminated against in any court of the United States of competent jurisdiction for all damages caused by or resulting therefrom. (Acts Feb. 4, 1887, c. 104, § 10, 24 Stat. 382; March 2, 1889, c. 382, § 2, 25 Stat. 857; June 18, 1910, c. 309, § 10, 36 Stat. 549; Feb. 28, 1920, c. 91, § 414.)

§ 7896. Interstate Commerce Commission created; Commissioners.—A commission is hereby created and established to be known as the Interstate Commerce Commission, which shall be composed of five Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioners first appointed under this Act shall continue in office for the term of two, three, four, five, and six years, respectively, from the first day of January, anno Domini eighteen hundred and eighty-seven, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he shall succeed. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than three of the Commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this Act, or owning stock or bonds thereof, or who is in any manner peculiarly interested therein, shall enter upon the duties of or hold such office. Said Commissioners shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission. (Act Feb. 4, 1887, c. 104, § 11, 24 Stat. 383.)

Note.—See Act Aug. 9, 1917, c. 50, § 1, § 7920, this Code, for changes in provisions of this section.

§ 7897. Power of Commission to investigate; duties of district attorneys to prosecute; witnesses; production of books and papers; depositions.—(1) The Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions

of this Act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created; and the Commission is hereby authorized and required to execute and enforce the provisions of this Act; and, upon the request of the Commission, it shall be the duty of any district attorney of the United States to whom the Commission may apply to institute in the proper court and to prosecute under the direction of the Attorney-General of the United States all necessary proceedings for the enforcement of the provisions of this Act and for the punishment of all violations thereof, and the cost and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States; and for the purposes of this Act the Commission shall have power to require, by subpoena, the attendance and testimony of witnesses and the production of all books, papers, tariff, contracts, agreements, and documents relating to any matter under investigation.

(2) Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the Commission, or any party to a proceeding before the Commission, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

(3) And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any common carrier subject to the provisions of this Act, or other person, issue an order requiring such common carrier or other person to appear before said Commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

(4) The testimony of any witness may be taken, at the instance of a party, in any proceeding or investigation depending before the Commission by deposition, at any time after a cause or proceeding is at issue on petition and answer. The Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any judge of any court of the United States, or any commissioner of a circuit, or any clerk of a district or circuit court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission as hereinbefore provided.

(5) Every person deposing as herein provided shall be cautioned and sworn (or affirm, if he so request) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the magistrate taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

(6) If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission. All depositions must be promptly filed with the Commission.

(7) Witnesses whose depositions are taken pursuant to this Act, and the magistrate or other officer taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States. (Acts Feb. 4, 1887, c. 104, § 12, 24 Stat. 383; March 2, 1889, c. 382, § 3, 25 Stat. 858; Feb. 10, 1891, c. 128, 26 Stat. 743; Feb. 28, 1920, c. 91, § 414.)

§ 7902. Complaints of violation of law; forwarding statement to carrier; reparation; investigation; hearing and order of Commission.—(1) Any person, firm, corporation, company, or association, or any mercantile, agricultural, or manufacturing society or other organization, or any body politic or municipal organization, or any common carrier, complaining of anything done or omitted to be done by any common carrier subject to the provisions of this Act, in contravention of the provisions thereof, may apply to said commission, by petition, which shall briefly state the facts; whereupon a statement of the complaint thus made shall be forwarded by the commission to such common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing, within a reasonable time, to be specified by the Commission. If such common carrier within the time specified shall make reparation for the injury alleged to have been done, the common carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier or carriers shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

(2) Said commission shall, in like manner and with the same authority and powers, investigate any complaint forwarded by the railroad commissioner or railroad commission of any State or Territory at the request of such commissioner or commission, and the Interstate Commerce Commission shall have full authority and power at any time to institute an inquiry, on its own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made, to or before said commission by any provision of this Act, or concerning which any question may arise under any of the provisions of this Act, or relating to the enforcement of any of the provisions of this Act. And the said commission shall have the same powers and authority to proceed with any inquiry instituted on its own motion as though it had been appealed to by complaint or petition under any of the provisions of this Act, including the power to make and enforce any order or orders in the case, or relating to the matter or thing concerning which the inquiry is had excepting orders for the payment of money. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

(3) Whenever in any investigation under the provisions of this Act, or in any investigation instituted upon petition of the carrier concerned, which petition is hereby authorized to be filed, there shall be brought in issue any rate, fare, charge, classification, regulation, or practice, made or imposed by authority of any State, or initiated by the President during the period of Federal control, the Commission, before proceeding to hear and dispose of such issue, shall cause the State or States interested to be notified of the proceeding. The Commission may confer with the authorities of any State having regulatory jurisdiction over the class of persons and corporations subject to this Act with respect to the relationship between rate structures and practices of carriers subject to the jurisdiction of such State bodies and of the Commission; and to that end is authorized and empowered, under rules to be prescribed by it, and which may be modified from time to time, to hold joint hearings with any such State regulating bodies on any matters wherein the Commission is empowered to act and where the rate-making authority of a State is or may be affected by the action taken by the Commission. The Commission is also authorized to avail itself of the cooperation, services, records, and facilities of such State authorities in the enforcement of any provision of this Act.

(4) Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreason-

able, or unjust discrimination against interstate or foreign commerce, which is hereby forbidden and declared to be unlawful it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, or discrimination. Such rates, fares, charges, classifications, regulations, and practices shall be observed while in effect by the carriers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding. (Acts Feb. 4, 1887, c. 104, § 13, 24 Stat. 383; June 18, 1910, c. 309, § 11, 36 Stat. 550; Feb. 28, 1920, c. 91, § 416.)

§ 7903. Reports of investigations; contents; record of reports; publication of decisions; publications as evidence; annual reports.—(1) Whenever an investigation shall be made by said Commission, it shall be its duty to make a report in writing in respect thereto, which shall state the conclusions of the Commission, together with its decision, order, or requirement in the premises; and in case damages are awarded such report shall include the findings of fact on which the award is made.

(2) All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of.

(3) The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the Commission therein contained in all courts of the United States and of the several States without any further proof or authentication thereof. The Commission may also cause to be printed for early distribution its annual reports. (Acts Feb. 4, 1887, c. 104, § 14, 24 Stat. 384; March 2, 1889, c. 382, § 4, 25 Stat. 959; June 29, 1906, c. 3591, § 3, 34 Stat. 589; Feb. 28, 1920, c. 91, § 417.)

§ 7904. Correction or change of rates, regulations, or practices; time operation of orders by Commission; prescription of through routes and joint rates; transportation of livestock; division of joint charges; routing of traffic; disclosure of information; services or instrumentalities furnished by owner of property.—(1) Whenever, after full hearing, upon a complaint made as provided in section 13 of this Act, or after full hearing under an order for investigation and hearing made by the Commission on its own initiative, either in extension of any pending complaint or without any complaint whatever, the Commission shall be of opinion that any individual or joint rate, fare, or charge whatsoever demanded, charged, or collected by any common carrier or carriers subject to this Act for the transportation of persons or property or for the transmission of messages as defined in the first section of this Act, or that any individual or joint classification, regulation, or practice whatsoever of such carrier or carriers subject to the provisions of this Act, is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this Act, the Commission is hereby authorized and empowered to determine and prescribe what will be the just and reasonable individual or joint rate, fare, or charge, or rates, fares, or charges, to be thereafter observed in such case, or the maximum or minimum, or maximum and minimum, to be charged (or, in the case of a through route where one of the carriers is a water line, the maximum rates, fares, and charges, applicable thereto), and what individual or joint classification, regulation, or practice is or will be just, fair, and reasonable, to be thereafter followed, and to make an order that the carrier or carriers shall cease and desist from such violation to the extent to which the Commission finds that the same does or will exist, and shall not thereafter publish, demand, or collect any rate, fare, or charge for such transportation or transmission other than the rate, fare, or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be, and shall adopt the classification and shall conform to and observe the regulation or practice so prescribed.

(2) Except as otherwise provided in this Act, all orders of the Commission, other than orders for the payment of money, shall take effect within such

reasonable time, not less than thirty days, and shall continue in force until its further order, or for a specified period of time, according as shall be prescribed in the order, unless the same shall be suspended or modified or set aside by the Commission, or be suspended or set aside by a court of competent jurisdiction.

(3) The Commission may, and it shall whenever deemed by it to be necessary or desirable in the public interest, after full hearing upon complaint or upon its own initiative without a complaint, establish through routes, joint classifications, and joint rates, fares, or charges, applicable to the transportation of passengers or property, or the maxima or minima, or maxima and minima, to be charged (or, in the case of a through route where one of the carriers is a water line, the maximum rates, fares, and charges applicable thereto), and the divisions of such rates, fares, or charges as hereinafter provided, and the terms and conditions under which such through routes shall be operated; and this provision, except as herein otherwise provided, shall apply when one of the carriers is a water line. The Commission shall not, however, establish any through route, classification, or practice, or any rate, fare, or charge, between street electric passenger railways not engaged in the general business of transporting freight in addition to their passenger and express business, and railroads of a different character; nor shall the Commission have the right to establish any route, classification, or practice, or any rate, fare, or charge when the transportation is wholly by water, and any transportation by water affected by this Act shall be subject to the laws and regulations applicable to transportation by water.

(4) In establishing any such through route the Commission shall not (except as provided in section 3, and except where one of the carriers is a water line), require any carrier by railroad, without its consent, to embrace in such route substantially less than the entire length of its railroad and of any intermediate railroad operated in conjunction and under a common management or control therewith, which lies between the termini of such proposed through route, unless such inclusion of lines would make the through route unreasonably long as compared with another practicable through route which could otherwise be established: Provided, That in time of shortage of equipment, congestion of traffic, or other emergency declared by the Commission it may (either upon complaint or upon its own initiative without complaint, at once, if it so orders without answer or other formal pleadings by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the Commission may determine) establish temporarily such through routes as in its opinion are necessary or desirable in the public interest.

(5) Transportation wholly by railroad of ordinary livestock in car-load lots destined to or received at public stockyards shall include all necessary service of unloading and reloading en route, delivery at public stockyards of inbound shipments into suitable pens, and receipt and loading at such yards of outbound shipments, without extra charge therefor to the shipper, consignee or owner, except in cases where the unloading or reloading en route is at the request of the shipper, consignee or owner, or to try an intermediate market, or to comply with quarantine regulations. The Commission may prescribe or approve just and reasonable rules governing each of such excepted services. Nothing in this paragraph shall be construed to affect the duties and liabilities of the carriers now existing by virtue of law respecting the transportation of other than ordinary livestock, or the duty of performing service as to shipments other than those to or from public stockyards.

(6) Whenever, after full hearing upon complaint or upon its own initiative the Commission is of opinion that the divisions of joint rates, fares, or charges, applicable to the transportation of passengers or property, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto (whether agreed upon by such carriers, or any of them, or otherwise established), the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers, and in cases where the joint rate, fare, or charge was established pursuant to a finding or order of the Commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial, the

Commission may also by order determine what (for the period subsequent to the filing of the complaint or petition or the making of the order of investigation) would have been the just, reasonable, and equitable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith. In so prescribing and determining the divisions of joint rates, fares and charges, the Commission shall give due consideration, among other things, to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers; and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare or charge.

(7) Whenever there shall be filed with the Commission any schedule stating a new individual or joint rate, fare, or charge, or any new individual or joint classification, or any new individual or joint regulation or practice affecting any rate, fare, or charge, the Commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice; and pending such hearing and the decision thereon the Commission, upon filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation, or practice, but not for a longer period than one hundred and twenty days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, fare, charge, classification, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing can not be concluded within the period of suspension, as above stated, the Commission may extend the time of suspension for a further period not exceeding thirty days, and if the proceeding has not been concluded and an order made at the expiration of such thirty days, the proposed change of rate, fare, charge, classification, regulation, or practice shall go into effect at the end of such period, but, in case of a proposed increased rate or charge for or in respect to the transportation of property, the Commission may by order require the interested carrier or carriers to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a rate, fare, or charge increased after January 1, 1910, or of a rate, fare, or charge sought to be increased after the passage of this Act, the burden of proof to show that the increased rate, fare, or charge, or proposed increased rate, fare, or charge, is just and reasonable shall be upon the carrier, and the Commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

(8) And in establishing such through route, the Commission shall not require any company, without its consent, to embrace in such route substantially less than the entire length of its railroad and of any intermediate railroad operated in conjunction and under a common management or control therewith which lies between the termini of such proposed through route, unless to do so would make such through route unreasonably long as compared with another practicable through route which could otherwise be established.

(9) Whenever property is diverted or delivered by one carrier to another carrier contrary to routing instructions in the bill of lading, unless such

diversion or delivery is in compliance with a lawful order, rule, or regulation of the Commission, such carriers shall, in a suit or action in any court of competent jurisdiction, be jointly and severally liable to the carrier thus deprived of its right to participate in the haul of the property, for the total amount of the rate or charge it would have received had it participated in the haul of the property. The carrier to which the property is thus diverted shall not be liable in such suit or action if it can show, the burden of proof being upon it, that before carrying the property it had no notice, by bill of lading, waybill or otherwise, of the routing instructions. In any judgment which may be rendered the plaintiff shall be allowed to recover against the defendant a reasonable attorney's fee to be taxed in the case.

(10) With respect to traffic not routed by the shipper, the Commission may, whenever the public interest and a fair distribution of the traffic require, direct the route which such traffic shall take after it arrives at the terminus of one carrier or at a junction point with another carrier, and is to be there delivered to another carrier.

(11) In all cases where at the time of delivery of property to any railroad corporation being a common carrier for transportation subject to the provisions of this Act to any point of destination, between which and the point of such delivery for shipment two or more through routes and through rates shall have been established as in this Act provided to which through routes and through rates such carrier is a party, the person, firm, or corporation making such shipment, subject to such reasonable exceptions and regulations as the Interstate Commerce Commission shall from time to time prescribe, shall have the right to designate in writing by which of such through routes such property shall be transported to destination, and it shall thereupon be the duty of the initial carrier to route said property and issue a through bill of lading therefor as so directed, and to transport said property over its own line or lines, and deliver the same to a connecting line or lines according to such through route, and it shall be the duty of each of said connecting carriers to receive said property and transport it over the said line or lines and deliver the same to the next succeeding carrier or consignee according to the routing instructions in said bill of lading: Provided, however, That the shipper shall in all instances have the right to determine, where competing lines of railroad constitute portions of a through line or route, over which of said competing lines so constituting a portion of said through line or route his freight shall be transported.

(12) It shall be unlawful for any common carrier subject to the provisions of this Act, or any officer, agent, or employee of such common carrier, or for any other person or corporation lawfully authorized by such common carrier to receive information therefrom, knowingly to disclose to or permit to be acquired by any person or corporation other than the shipper or consignee, without the consent of such shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such common carrier for interstate transportation, which information may be used to the detriment or prejudice of such shipper or consignee, or which may improperly disclose his business transactions to a competitor; and it shall also be unlawful for any person or corporation to solicit or knowingly receive any such information which may be so used: Provided, That nothing in this Act shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any state or federal court, or to any officer or agent of the Government of the United States, or of any State or Territory, in the exercise of his powers, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of crime; or information given by a common carrier to another carrier or its duly authorized agent, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such carriers.

(13) Any person, corporation, or association violating any of the provisions of the next preceding paragraph of this section shall be deemed guilty of a misdemeanor, and for each offense, on conviction, shall pay to the United States a penalty of not more than one thousand dollars.

(14) If the owner of property transported under this Act directly or indirectly renders any service connected with such transportation, or furnishes any instrumentality used therein, the charge and allowance therefor shall be no more than is just and reasonable, and the Commission may,

after hearing on a complaint or on its own initiative, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the services so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order, which order shall have the same force and effect and be enforced in like manner as the orders above provided for under this section.

The foregoing enumeration of powers shall not exclude any power which the Commission would otherwise have in the making of an order under the provisions of this Act. (Acts Feb. 4, 1887, c. 104, § 15, 24 Stat. 384; June 29, 1906, c. 3591, § 4, 34 Stat. 589; June 18, 1910, c. 309, § 12, 36 Stat. 551; Aug. 9, 1917, c. 50, § 4, 40 Stat. 272; Feb. 28, 1920, c. 91, §§ 418-421.)

Note.—§ 3 of Act Feb. 4, 1887, c. 104, is now § 7886; § 13 of said Act is § 7902.

§ 7904a. Definitions; express companies; electric railways; water carriers; determination of fair net operating income; valuation of property; excessive income and reserve fund; general railroad, contingent or revolving fund; loans to carriers; lease or sale to roads of equipment or facilities by Commission; earnings by new roads.—(1) When used in this section the term "rates" means rates, fares, and charges, and all classifications, regulations, and practices, relating thereto; the term "carrier" means a carrier by railroad or partly by railroad and partly by water, within the continental United States, subject to this Act, excluding (a) sleeping-car companies and express companies, (b) street or suburban electric railways unless operated as a part of a general steam railroad system of transportation, (c) interurban electric railways unless operated as a part of a general steam railroad system of transportation or engaged in the general transportation of freight, and (d) any belt-line railroad, terminal switching railroad, or other terminal facility, owned exclusively and maintained, operated, and controlled by any State or political subdivision thereof; and the term "net railway operating income" means railway operating income, including in the computation thereof debits and credits arising from equipment rents and joint facility rents.

(2) In the exercise of its power to prescribe just and reasonable rates the Commission shall initiate, modify, establish or adjust such rates so that carriers as a whole (or as a whole in each of such rate groups or territories as the Commission may from time to time designate) will, under honest, efficient and economical management and reasonable expenditures for maintenance of way, structures and equipment, earn an aggregate annual net railway operating income equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation: Provided, That the Commission shall have reasonable latitude to modify or adjust any particular rate which it may find to be unjust or unreasonable, and to prescribe different rates for different sections of the country.

(3) The Commission shall from time to time determine and make public what percentage of such aggregate property value constitutes a fair return thereon, and such percentage shall be uniform for all rate groups or territories which may be designated by the Commission. In making such determination it shall give due consideration, among other things, to the transportation needs of the country and the necessity (under honest, efficient and economical management of existing transportation facilities) of enlarging such facilities in order to provide the people of the United States with adequate transportation: Provided, That during the two years beginning March 1, 1920, the Commission shall take as such fair return a sum equal to 5½ per centum of such aggregate value, but may, in its discretion, add thereto a sum not exceeding one-half of one per centum of such aggregate value to make provision in whole or in part for improvements, betterments or equipment, which, according to the accounting system prescribed by the Commission, are chargeable to capital account.

(4) For the purposes of this section, such aggregate value of the property of the carriers shall be determined by the Commission from time to time and as often as may be necessary. The Commission may utilize the results of its investigation under section 19a of this Act, in so far as deemed by it available, and shall give due consideration to all the elements of value recognized by the law of the land for rate-making purposes, and shall give to the property investment account of the carriers only that consider-

ation which under such law it is entitled to in establishing values for rate-making purposes. Whenever pursuant to section 19a of this Act the value of the railway property of any carrier held for and used in the service of transportation has been finally ascertained, the value so ascertained shall be deemed by the Commission to be the value thereof for the purposes of determining such aggregate value.

(5) Inasmuch as it is impossible (without regulation and control in the interest of the commerce of the United States considered as a whole) to establish uniform rates upon competitive traffic which will adequately sustain all the carriers which are engaged in such traffic and which are indispensable to the communities to which they render the service of transportation, without enabling some of such carriers to receive a net railway operating income substantially and unreasonably in excess of a fair return upon the value of their railway property held for and used in the service of transportation, it is hereby declared that any carrier which receives such an income so in excess of a fair return, shall hold such part of the excess, as hereinafter prescribed, as trustee for, and shall pay it to, the United States.

(6) If, under the provisions of this section, any carrier receives for any year a net railway operating income in excess of 6 per centum of the value of the railway property held for and used by it in the service of transportation, one-half of such excess shall be placed in a reserve fund established and maintained by such carrier, and the remaining one-half thereof shall, within the first four months following the close of the period for which such computation is made, be recoverable by and paid to the Commission for the purpose of establishing and maintaining a general railroad contingent fund as hereinafter described. For the purposes of this paragraph the value of the railway property and the net railway operating income of a group of carriers, which the Commission finds are under common control and management and are operated as a single system, shall be computed for the system as a whole irrespective of the separate ownership and accounting returns of the various parts of such system. In the case of any carrier which has accepted the provisions of section 209 of this amendatory Act the provisions of this paragraph shall not be applicable to the income for any period prior to September 1, 1920. The value of such railway property shall be determined by the Commission in the manner provided in paragraph (4).

(7) For the purpose of paying dividends or interest on its stocks, bonds, or other securities, or rent for leased roads, a carrier may draw from the reserve fund established and maintained by it under the provisions of this section to the extent that its net railway operating income for any year is less than a sum equal to 6 per centum of the value of the railway property held for and used by it in the service of transportation, determined as provided in paragraph (6); but such fund shall not be drawn upon for any other purpose.

(8) Such reserve fund need not be accumulated and maintained by any carrier beyond a sum equal to 5 per centum of the value of its railway property determined as herein provided, and when such fund is so accumulated and maintained the portion of its excess income which the carrier is permitted to retain under paragraph (6) may be used by it for any lawful purpose.

(9) The Commission shall prescribe rules and regulations for the determination and recovery of the excess income payable to it under this section, and may require such security and prescribe such reasonable terms and conditions in connection therewith as it may find necessary. The Commission shall make proper adjustments to provide for the computation of excess income for a portion of a year, and for a year in which a change in the percentage constituting a fair return or in the value of a carrier's railway property becomes effective.

(10) The general railroad contingent fund so to be recoverable by and paid to the Commission and all accretions thereof shall be a revolving fund and shall be administered by the Commission. It shall be used by the Commission in furtherance of the public interest in railway transportation either by making loans to carriers to meet expenditures for capital account or to refund maturing securities originally issued for capital account, or by purchasing transportation equipment and facilities and

leasing the same to carriers, as hereinafter provided. Any moneys in the fund not so employed shall be invested in obligations of the United States or deposited in authorized depositories of the United States subject to the rules promulgated from time to time by the Secretary of the Treasury relating to Government deposits.

(11) A carrier may at any time make application to the Commission for a loan from the general railroad contingent fund, setting forth the amount of the loan and the term for which it is desired, the purpose of the loan and the uses to which it will be applied, the present and prospective ability of the applicant to repay the loan and meet the requirements of its obligations in that regard, the character and value of the security offered, and the extent to which the public convenience and necessity will be served. The application shall be accompanied by statements showing such facts and details as the Commission may require with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operations, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as the Commission may deem pertinent to the inquiry.

(12) If the Commission, after such hearing and investigation, with or without notice, as it may direct, finds that the making, in whole or in part, of the proposed loan from the general railroad contingent fund is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, the Commission may make a loan to the applicant from such railroad contingent fund, in such amount, for such length of time, and under such terms and conditions as it may deem proper. The Commission shall also prescribe the security to be furnished, which shall be adequate to secure the loan. All such loans shall bear interest at the rate of 6 per centum per annum, payable semiannually to the Commission. Such loans when repaid, and all interest paid thereon, shall be placed in the general railroad contingent fund.

(13) A carrier may at any time make application to the Commission for the lease to it of transportation equipment or facilities, purchased from the general railroad contingent fund, setting forth the kind and amount of such equipment or facilities and the term for which it is desired to be leased, the uses to which it is proposed to put such equipment or facilities, the present and prospective ability of the applicant to pay the rental charges thereon and to meet the requirements of its obligations under the lease, and the extent to which the public convenience and necessity will be served. The application shall be accompanied by statements showing such facts and details as the Commission may require with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of leasing such equipment or facilities to the applicant as the Commission may deem pertinent to the inquiry.

(14) If the Commission, after such hearing and investigation, with or without notice, as it may direct, finds that the leasing to the applicant of such equipment or facilities, in whole or in part, is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning power of the applicant is such as to furnish reasonable assurance of the applicant's ability to pay promptly the rental charges and meet its other obligations under such lease, the Commission may lease such equipment or facilities purchased by it from the general railroad contingent fund, to the applicant for such length of time, and under such terms and conditions as it may deem proper. The rental charges provided in every such lease shall be at least sufficient to pay a return of 6 per centum per annum, plus allowance for depreciation determined as provided in paragraph (5) of section 20 of this Act, upon the value of the equipment or facilities leased thereunder. All rental charges and other payments received by the Commission in connection with such equipment and facilities, including amounts received under any sale thereof, shall be placed in the general railroad contingent fund.

(15) The Commission may from time to time purchase, contract for, the construction, repair and replacement of, and sell, equipment and facilities, and enter into and carry out contracts and other obligations in connection therewith, to the extent that moneys included in the general railroad contingent fund are available therefor, and in so far as necessary to enable it to secure and supply equipment and facilities to carriers whose applications therefor are approved under the provisions of this section, and to maintain and dispose of such equipment and facilities.

(16) The Commission may from time to time prescribe such rules and regulations as it deems necessary to carry out the provisions of this section respecting the making of loans and the lease of equipment and facilities.

(17) The provisions of this section shall not be construed as depriving shippers of their right to reparation in case of overcharges, unlawfully excessive or discriminatory rates, or rates excessive in their relation to other rates, but no shipper shall be entitled to recover upon the sole ground that any particular rate may reflect a proportion of excess income to be paid by the carrier to the Commission in the public interest under the provisions of this section.

(18) Any carrier, or any corporation organized to construct and operate a railroad, proposing to undertake the construction and operation of a new line of railroad may apply to the Commission for permission to retain for a period not to exceed ten years all or any part of its earnings derived from such new construction in excess of the amount heretofore in this section provided, for such disposition as it may lawfully make of the same, and the Commission may, in its discretion, grant such permission, conditioned, however, upon the completion of the work of construction within a period to be designated by the Commission in its order granting such permission. (Act Feb. 4, 1887, c. 104, § 15a, as added by Feb. 28, 1920, c. 91, § 422.)

Note.—§ 19a of Act Feb. 4, 1887, c. 104, is § 7913; § 20 of said Act is § 7916; § 209 of Act Feb. 28, 1920, c. 91, is § 10169j.

§ 7905. Orders by Commission for payment of money and for other purposes; enforcement; service; suspension or modification; time for recovery of charges or damages; penalties and prosecutions for noncompliance; records of Commissions.—(1) If, after hearing on a complaint made as provided in section thirteen of this Act [§ 7902, this Code], the Commission shall determine that any party complainant is entitled to an award of damages under the provisions of this Act for a violation thereof, the Commission shall make an order directing the carrier to pay to the complainant the sum to which he is entitled on or before a day named.

(2) If a carrier does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may file in the circuit court of the United States for the district in which he resides or in which is located the principal operating office of the carrier, or through which the road of the carrier runs, or in any State court of general jurisdiction having jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages, and the order of the Commission in the premises. Such suit in the circuit court of the United States shall proceed in all respects like other civil suits for damages, except that on the trial of such suit the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and except that the petitioner shall not be liable for costs in the circuit court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner shall finally prevail he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit.

(3) All actions at law by carriers subject to this Act for recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues, and not after. All complaints for the recovery of damages shall be filed with the Commission within two years from the time the cause of action accrues, and not after, unless the carrier, after the expiration of such two years or within ninety days before such expirations, begins an action for recovery of charges in respect of the same service, in which case such period of two years shall be extended to and including ninety days from the time such action by the carrier is begun.

In either case the cause of action in respect of a shipment of property shall, for the purposes of this section, be deemed to accrue upon delivery or tender of delivery thereof by the carrier, and not after. A petition for the enforcement of an order for the payment of money shall be filed in the district court or State court within one year from the date of the order, and not after.

(4) In such suits all parties in whose favor the Commission may have made an award for damages by a single order may be joined as plaintiffs, and all of the carriers parties to such order awarding such damages may be joined as defendants, and such suit may be maintained by such joint plaintiffs and against such joint defendants in any district where any one of such joint plaintiffs could maintain such suit against any one of such joint defendants; and service of process against any one of such defendants as may not be found in the district where the suit is brought may be made in any district where such defendant carrier has its principal operating office. In case of such joint suit the recovery, if any, may be by judgment in favor of any one of such plaintiffs, against the defendant found to be liable to such plaintiff.

(5) Every order of the Commission shall be forthwith served upon the designated agent of the carrier in the city of Washington or in such other manner as may be provided by law.

(6) The Commission shall be authorized to suspend or modify its orders upon such notice and in such manner as it shall deem proper.

(7) It shall be the duty of every common carrier, its agents and employees, to observe and comply with such orders so long as the same shall remain in effect.

(8) Any carrier, any officer, representative, or agent of a carrier, or any receiver, trustee, lessee, or agent of either of them, who knowingly fails or neglects to obey any order made under the provisions of sections 3, 13, or 15 of this Act shall forfeit to the United States the sum of \$5,000 for each offense. Every distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense.

(9) The forfeiture provided for in this Act shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States, brought in the district where the carrier has its principal operating office, or in any district through which the road of the carrier runs.

(10) It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The cost and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

(11) The Commission may employ such attorneys as it finds necessary for proper legal aid and service of the Commission or its members in the conduct of their work, or for proper representation of the public interests in investigations made by it or cases or proceedings pending before it, whether at the Commission's own instance or upon complaint, or to appear for or represent the Commission in any case in court; and the expenses of such employment shall be paid out of the appropriation for the Commission.

(12) If any carrier fails or neglects to obey any order of the Commission other than for the payment of money, while the same is in effect, the Interstate Commerce Commission or any party injured thereby, or the United States, by its Attorney General, may apply to the commerce court for the enforcement of such order. If, after hearing, that court determines that the order was regularly made and duly served, and that the carrier is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such carrier, its officers, agents, or representatives, from further disobedience of such order, or to enjoin upon it or them obedience to the same.

(13) The copies of schedules and classifications and tariffs of rates, fares, and charges, and of all contracts, agreements, and arrangements between common carriers filed with the Commission as herein provided, and the statistics, tables, and figures contained in the annual or other reports of carriers made to the Commission as required under the provisions of this Act shall be preserved as public records in the custody of the secretary of

the Commission, and shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the Commission and in all judicial proceedings; and copies of and extracts from any of said schedules, classifications, tariffs, contracts, agreements, arrangements, or reports, made public records as aforesaid, certified by the secretary, under the Commission's seal, shall be received in evidence with like effect as the originals. (Acts Feb. 4, 1887, c. 104, § 16, 24 Stat. 384; March 2, 1889, c. 382, § 5, 25 Stat. 859; June 29, 1906, c. 3591, § 5, 34 Stat. 590; June 18, 1910, c. 309, § 13, 36 Stat. 554; Feb. 28, 1920, c. 91, §§ 423-429.)

Note.—§ 3 of Act Feb. 4, 1887, c. 104, is § 7886; § 13 is § 7902, and § 15 is § 7904.

§ 7907. Proceedings of Commission; official seal; organization and functions of divisions.—(1) The Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. The Commission shall have an official seal, which shall be judicially noticed. Any member of the Commission may administer oaths and affirmations and sign subpoenas. A majority of the Commission shall constitute a quorum for the transaction of business, except as may be otherwise herein provided, but no Commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. The Commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, or before any division of the Commission, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before the Commission or any division thereof and be heard in person or by attorney. Every vote and official act of the Commission, or of any division thereof, shall be entered of record, and its proceedings shall be public upon the request of any party interested.

(2) The Commission is hereby authorized by its order to divide the members thereof into as many divisions (each to consist of not less than three members) as it may deem necessary, which may be changed from time to time. Such divisions shall be denominated, respectively, division one, division two, and so forth. Any Commissioner may be assigned to and may serve upon such division or divisions as the Commission may direct, and the senior in service of the Commissioners constituting any of said divisions shall act as chairman thereof. In case of vacancy in any division, or of absence or inability to serve thereon of any Commissioner thereto assigned, the chairman of the Commission or any Commissioner designated by him for that purpose, may temporarily serve on said division until the Commission shall otherwise order.

(3) The Commission may by order direct that any of its work, business, or functions arising under this Act, or under any Act amendatory thereof, or supplemental thereto, or under any amendment which may be made to any of said Acts, or under any other Act or joint resolution which has been or may hereafter be approved, or in respect of any matter which has been or may be referred to the Commission by Congress or by either branch thereof, be assigned or referred to any of said divisions for action thereon, and may by order at any time amend, modify, supplement, or rescind any such direction. All such orders shall take effect forthwith and remain in effect until otherwise ordered by the Commission.

(4) In conformity with and subject to the order or orders of the Commission in the premises, each division so constituted shall have power and authority by a majority thereof to hear and determine, order, certify, report, or otherwise act as to any of said work, business, or functions so assigned or referred to it for action by the Commission, and in respect thereof the division shall have all the jurisdiction and powers now or then conferred by law upon the Commission, and be subject to the same duties and obligations. Any order, decision, or report made or other action taken by any of said divisions in respect of any matters so assigned or referred to it shall have the same force and effect, and may be made, evidenced, and enforced in the same manner as if made, or taken by the Commission, subject to rehearing by the Commission, as provided in section sixteen-a hereof for rehearing cases decided by the Commission. The secretary and seal of the Commission shall be the secretary and seal of each division thereof.

(5) Nothing in this section contained, or done pursuant thereto, shall be deemed to divest the Commission of any of its powers. (Acts Feb. 4, 1887, c. 104, § 17, 24 Stat. 384; March 2, 1889, c. 382, § 6, 25 Stat. 861; Aug. 9, 1917, c. 50, § 2, 40 Stat. 270; Feb. 28, 1920, c. 91, §§ 430-422.)

Note.—§ 16a of Act Feb. 4, 1887, c. 104, is § 7906.

§ 7908. Salaries of Commissioners, secretary and employees; expenses; witness fees.—(1) Each Commissioner shall receive an annual salary of seven thousand five hundred dollars, payable in the same manner as the judges of the courts of the United States. The Commission shall appoint a secretary, who shall receive an annual salary of three thousand five hundred dollars, payable in like manner. The Commission shall have authority to employ and fix the compensation of such other employees as it may find necessary to the proper performance of its duties. Until otherwise provided by law, the Commission may hire suitable offices for its use, and shall have authority to procure all necessary office supplies. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(2) All of the expenses of the Commission, including all necessary expenses for transportation incurred by the Commissioners, or by their employees under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman of the Commission. (Acts Feb. 4, 1887, c. 104, § 18, 24 Stat. 386; March 2, 1889, c. 382, § 7, 25 Stat. 861; Feb. 28, 1920, c. 91, § 433.)

Note.—See § 7920.

§ 7913. Physical valuation of property of common carriers; employment of experts and examiners; inventory and classification.—(a) The Commission shall, as hereinafter provided, investigate, ascertain, and report the value of all the property owned or used by every common carrier subject to the provisions of this Act. To enable the Commission to make such investigation and report, it is authorized to employ such experts and other assistants as may be necessary. The Commission may appoint examiners who shall have power to administer oaths, examine witnesses, and take testimony. The Commission shall make an inventory which shall list the property of every common carrier subject to the provisions of this Act in detail, and show the value thereof as hereinafter provided, and shall classify the physical property, as nearly as practicable, in conformity with the classification of expenditures for road and equipment, as prescribed by the Interstate Commerce Commission.

(b) First. In such investigation said Commission shall ascertain and report in detail as to each piece of property owned or used by said common carrier for its purposes as a common carrier, the original cost to date, the cost of reproduction new, the cost of reproduction less depreciation, and an analysis of the methods by which these several costs are obtained, and the reason for their differences, if any. The Commission shall in like manner ascertain and report separately other values, and elements of value, if any, of the property of such common carrier, and an analysis of the methods of valuation employed, and of the reasons for any differences between any such value, and each of the foregoing cost values.

Second. Such investigation and report shall state in detail and separately from improvements the original cost of all lands, rights of way, and terminals owned or used for the purposes of a common carrier, and ascertained as of the time of dedication to public use, and the present value of the same, and separately the original and present cost of condemnation and damages or of purchase in excess of such original cost or present value.

Third. Such investigation and report shall show separately the property held for purposes other than those of a common carrier, and the original cost and present value of the same, together with an analysis of the methods of valuation employed.

Fourth. In ascertaining the original cost to date of the property of such common carrier the Commission, in addition to such other elements as it may deem necessary, shall investigate and report upon the history and organization of the present and of any previous corporation operating

such property; upon any increases or decreases of stocks, bonds, or other securities, in any reorganization; upon moneys received by any such corporation by reason of any issues of stocks, bonds, or other securities; upon the syndicating, banking, and other financial arrangements under which such issues were made and the expense thereof; and upon the net and gross earnings of such corporations; and shall also ascertain and report in such detail as may be determined by the Commission upon the expenditure of all moneys and the purposes for which the same were expended.

Fifth. The Commission shall ascertain and report the amount and value of any aid, gift, grant or right of way, or donation, made to any such common carrier, or to any previous corporation operating such property, by the Government of the United States or by any State, county, or municipal government, or by individuals, associations, or corporations; and it shall also ascertain and report the grants of land to any such common carrier, or any previous corporation operating such property, by the Government of the United States, or by any State, county, or municipal government, and the amount of money derived from the sale of any portion of such grants and the value of the unsold portion thereof at the time acquired and at the present time, also, the amount and value of any concession and allowance made by such common carrier to the Government of the United States, or to any State, county, or municipal government in consideration of such aid, gift, grant, or donation.

(c) Except as herein otherwise provided, the Commission shall have power to prescribe the method of procedure to be followed in the conduct of the investigation, the form in which the results of the valuation shall be submitted, and the classification of the elements that constitute the ascertained value, and such investigation shall show the value of the property of every common carrier as a whole and separately the value of its property in each of the several States and Territories and the District of Columbia, classified and in detail as herein required.

(d) Such investigation shall be commenced within sixty days after the approval of this Act and shall be prosecuted with diligence and thoroughness, and the result thereof reported to Congress at the beginning of each regular session thereafter until completed.

(e) Every common carrier subject to the provisions of this Act shall furnish to the Commission or its agents from time to time and as the Commission may require maps, profiles, contracts, reports of engineers, and any other documents, records, and papers, or copies of any or all of the same, in aid of such investigation and determination of the value of the property of said common carrier, and shall grant to all agents of the Commission free access to its right of way, its property, and its accounts, records, and memoranda whenever and wherever requested by any such duly authorized agent, and every common carrier is hereby directed and required to cooperate with and aid the Commission in the work of the valuation of its property in such further particulars and to such extent as the Commission may require and direct, and all rules and regulations made by the Commission for the purpose of administering the provisions of this section and section twenty of this Act [§ 7916, this Code] shall have the full force and effect of law. Unless otherwise ordered by the Commission, with the reasons therefor, the records and data of the Commission shall be open to the inspection and examination of the public.

(f) Upon the completion of the valuation herein provided for the Commission shall thereafter in like manner keep itself informed of all extensions and improvements or other changes in the condition and value of the property of all common carriers, and shall ascertain the value thereof, and shall from time to time, revise and correct its valuations, showing such revision and correction classified and as a whole and separately in each of the several States and Territories and the District of Columbia, which valuations, both original and corrected, shall be tentative valuations and shall be reported to Congress at the beginning of each regular session.

(g) To enable the Commission to make such changes and corrections in its valuations of each class of property, every common carrier subject to the provisions of this Act shall make such reports and furnish such information as the Commission may require.

(h) Whenever the Commission shall have completed the tentative valuation of the property of any common carrier, as herein directed, and before

such valuation shall become final, the Commission shall give notice by registered letter to the said carrier, the Attorney General of the United States, the governor of any State in which the property so valued is located, and to such additional parties as the Commission may prescribe, stating the valuation placed upon the several classes of property of said carrier, and shall allow thirty days in which to file a protest of the same with the Commission. If no protest is filed within thirty days, said valuation shall become final as of the date thereof.

(i) If notice of protest is filed the Commission shall fix a time for hearing the same, and shall proceed as promptly as may be to hear and consider any matter relative and material thereto which may be presented in support of any such protest so filed as aforesaid. If after hearing any protest of such tentative valuation under the provisions of this Act the Commission shall be of the opinion that its valuation should not become final, it shall make such changes as may be necessary, and shall issue an order making such corrected tentative valuation final as of the date thereof. All final valuations by the Commission and the classification thereof shall be published and shall be prima facie evidence of the value of the property in all proceedings under the Act to regulate commerce as of the date of the fixing thereof, and in all judicial proceedings for the enforcement of the Act approved February fourth, eighteen hundred and eighty-seven, commonly known as "the Act to regulate commerce," and the various Acts amendatory thereof, and in all judicial proceedings brought to enjoin, set aside, annul, or suspend, in whole or in part, any order of the Interstate Commerce Commission.

(j) If upon the trial of any action involving a final value fixed by the Commission, evidence shall be introduced regarding such value which is found by the court to be different from that offered upon the hearing before the Commission, or additional thereto and substantially affecting said value, the court, before proceeding to render judgment shall transmit a copy of such evidence to the Commission, and shall stay further proceedings in said action for such time as the court shall determine from the date of such transmission. Upon the receipt of such evidence the Commission shall consider the same and may fix a final value different from the one fixed in the first instance, and may alter, modify, amend or rescind any order which it has made involving said final value, and shall report its action thereon to said court within the time fixed by the court. If the Commission shall alter, modify, or amend its order, such altered, modified, or amended order shall take the place of the original order complained of and judgment shall be rendered thereon as though made by the Commission in the first instance. If the original order shall not be rescinded or changed by the Commission, judgment shall be rendered upon such original order.

(k) The provisions of this section shall apply to receivers of carriers and operating trustees. In case of failure or refusal on the part of any carrier, receiver, or trustee to comply with all the requirements of this section and in the manner prescribed by the Commission such carrier, receiver, or trustee shall forfeit to the United States the sum of five hundred dollars for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in section sixteen of the Act to regulate commerce [§ 7905, this code].

(l) The district courts of the United States shall have jurisdiction, upon the application of the Attorney General of the United States at the request of the Commission, alleging a failure to comply with or a violation of any of the provisions of this section by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of this section. (Act Feb. 4, 1887, c. 104, § 19a, as added by Acts March 1, 1913, c. 92, 37 Stat. 701; Feb. 28, 1920, c. 91, § 433.)

§ 7916. Annual reports from common carriers and owners of railroads; uniform system of accounts.—(1) The Commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this Act, and from the owners of all railroads engaged in interstate commerce as defined in this Act, to prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information. Such

annual reports shall show in detail the amount of capital stock issued; the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipments; the number of employees and the salaries paid each class; the accidents to passengers, employees, and other persons, and the causes thereof; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts affecting the same as the Commission may require; and the Commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this Act, prescribe a period of time within which all common carriers subject to the provisions of this Act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

(2) Said detailed reports shall contain all the required statistics for the period of twelve months ending on the thirtieth day of June in each year, or on the thirty-first day of December in each year if the Commission by order substitute that period for the year ending June thirtieth, and shall be made out under oath and filed with the Commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the Commission; and if any carrier, person, or corporation subject to the provisions of this Act shall fail to make and file said annual reports within the time above specified, or within the time extended by the Commission, for making and filing the same, or shall fail to make specific answer to any question authorized by the provisions of this section within thirty days from the time it is lawfully required so to do, such party shall forfeit to the United States the sum of one hundred dollars for each and every day it shall continue to be in default with respect thereto. The Commission shall also have authority by general or special orders to require said carriers, or any of them, to file monthly reports of earnings and expenses, and to file periodical or special, or both periodical and special, reports concerning any matters about which the Commission is authorized or required by this or any other law to inquire or to keep itself informed or which it is required to enforce; and such periodical or special reports shall be under oath whenever the Commission so requires; and if any such carrier shall fail to make and file any such periodical or special report within the time fixed by the Commission, it shall be subject to the forfeitures last above provided.

(3) Said forfeitures shall be recovered in the manner provided for the recovery of forfeitures under the provisions of this Act.

(4) The oath required by this section may be taken before any person authorized to administer an oath by the laws of the State in which the same is taken.

(5) The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the provisions of this Act, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys. The Commission shall, as soon as practicable, prescribe, for carriers subject to this Act, the classes of property for which depreciation charges may properly be included under operating expenses, and the percentages of depreciation which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose. The Commission may, when it deems necessary, modify the classes and percentages so prescribed. The carriers subject to this Act shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the Commission. No such carrier shall in any case include in any form under its operating or other expenses any deprecia-

tion or other charge or expenditure included elsewhere as a depreciation charge or otherwise under its operating or other expenses. The commission shall at all times have access to all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept or required to be kept by carriers subject to this Act, and the provisions of this section respecting the preservation and destruction of books, papers, and documents shall apply thereto, and it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the Commission, and it may employ special agents or examiners, who shall have authority under the order of the Commission to inspect and examine any and all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept or required to be kept by such carriers. This provision shall apply to receivers of carriers and operating trustees. The provisions of this section shall also apply to all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, kept during the period of Federal control, and placed by the President in the custody of carriers subject to this Act.

(6) In case of failure or refusal on the part of any such carrier, receiver, or trustee to keep such accounts, records, and memoranda on the books and in the manner prescribed by the Commission, or to submit such accounts, records, and memoranda as are kept to the inspection of the Commission or any of its authorized agents or examiners, such carrier, receiver, or trustee shall forfeit to the United States the sum of five hundred dollars for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this Act.

(7) Any person who shall willfully make any false entry in the accounts of any book of accounts or in any record or memoranda kept by a carrier, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such account, record, or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the carrier's business, or shall keep any other accounts, records, or memoranda than those prescribed or approved by the Commission, shall be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than one thousand dollars nor more than five thousand dollars, or imprisonment for a term not less than one year nor more than three years, or both such fine and imprisonment: Provided, That the Commission may in its discretion issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, or documents of carriers which may, after a reasonable time, be destroyed, and prescribing the length of time such books, papers, or documents shall be preserved.

(8) Any examiner who divulges any fact or information which may come to his knowledge during the course of such examination, except in so far as he may be directed by the Commission or by a court or judge thereof, shall be subject, upon the conviction in any court of the United States of competent jurisdiction, to a fine of not more than five thousand dollars or imprisonment for a term not exceeding two years, or both.

(9) That the circuit and district courts of the United States shall have jurisdiction, upon the application of the Attorney General of the United States at the request of the Commission, alleging a failure to comply with or a violation of any of the provisions of said Act to regulate commerce or of any Act supplementary thereto or amendatory thereof by any common carrier to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of said Acts, or any of them.

(10) And to carry out and give effect to the provisions of said Acts, or any of them, the Commission is hereby authorized to employ special agents or examiners who shall have power to administer oaths, examine witnesses, and receive evidence. (Acts Feb. 4, 1887, c. 104, § 20, 24 Stat. 386; June 29, 1906, c. 3591, § 7, 34 Stat. 593; Feb. 25, 1909, c. 193, 35 Stat. 649; June 18, 1910, c. 309, § 14, 36 Stat. 555; March 4, 1915, c. 176, § 1, 38 Stat. 1196; Aug. 9, 1916, c. 301, 39 Stat. 441; Feb. 28, 1920, c. 91, §§ 435-437.)

Note.—The Act last cited designated the last two paragraphs of section 20 of the Interstate Commerce Act as paragraphs 11 and 12 of that section, and further amended paragraph 11, which is § 7976 herein. Such amendments of 1920 are there shown in italics. Said paragraph 12 is § 7977 herein.

§ 7916a. Issue of securities and assumption of obligations by carriers; holding position of officer or director of more than one carrier personal interest on corporate transactions; payment of dividend from capital account.

—(1) As used in this section the term "carrier" means a common carrier by railroad (except a street, suburban, or interurban electric railway which is not operated as a part of a general steam railroad system of transportation) which is subject to this Act, or any corporation organized for the purpose of engaging in transportation by railroad subject to this Act.

(2) From and after one hundred and twenty days after this section takes effect it shall be unlawful for any carrier to issue any share of capital stock or any bond or other evidence of interest in or indebtedness of the carrier (hereinafter in this section collectively termed "securities") or to assume any obligation or liability as lessor, lessee, guarantor, indorser, surety, or otherwise, in respect of the securities of any other person, natural or artificial, even though permitted by the authority creating the carrier corporation, unless and until, and then only to the extent that, upon application by the carrier, and after investigation by the Commission of the purposes and uses of the proposed issue and the proceeds thereof, or of the proposed assumption of obligation or liability in respect of the securities of any other person, natural or artificial, the Commission by order authorizes such issue or assumption. The Commission shall make such order only if it finds that such issue or assumption: (a) is for some lawful object within its corporate purposes, and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the carrier of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

(3) The Commission shall have power by its order to grant or deny the application as made, or to grant it in part and deny it in part, or to grant it with such modifications and upon such terms and conditions as the Commission may deem necessary or appropriate in the premises, and may from time to time, for good cause shown, make such supplemental orders in the premises as it may deem necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, and extent to which, or the conditions under which, any securities so theretofore authorized or the proceeds thereof may be applied, subject always to the requirements of the foregoing paragraph (2).

(4) Every application for authority shall be made in such form and contain such matters as the Commission may prescribe. Every such application, as also every certificate of notification hereinafter provided for, shall be made under oath, signed and filed on behalf of the carrier by its president, a vice-president, auditor, comptroller, or other executive officer having knowledge of the matters therein set forth and duly designated for that purpose by the carrier.

(5) Whenever any securities set forth and described in any application for authority or certificate of notification as pledged or held unencumbered in the treasury of the carrier shall, subsequent to the filing of such application or certificate, be sold, pledged, repledged, or otherwise disposed of by the carrier, such carrier shall, within ten days after such sale, pledge, repledge, or by other disposition, file with the Commission a certificate of notification to that effect, setting forth therein all such facts as may be required by the Commission.

(6) Upon receipt of any such application for authority the Commission shall cause notice thereof to be given to and a copy filed with the governor of each State in which the applicant carrier operates. The railroad commissions, public service or utilities commissions, or other appropriate State authorities of the State shall have the right to make before the Commission such representations as they may deem just and proper for preserving and conserving the rights and interests of their people and the States, respectively, involved in such proceedings. The Commission may hold hearings, if it sees fit, to enable it to determine its decision upon the application for authority.

(7) The jurisdiction conferred upon the Commission by this section shall be exclusive and plenary, and a carrier may issue securities and assume obligations or liabilities in accordance with the provisions of this section without securing approval other than as specified herein.

(8) Nothing herein shall be construed to imply any guaranty or obligation as to such securities on the part of the United States.

(9) The foregoing provisions of this section shall not apply to notes to be issued by the carrier maturing not more than two years after the date thereof and aggregating (together with all other then outstanding notes of a maturity of two years or less) not more than 5 per centum of the par value of the securities of the carrier then outstanding. In the case of securities having no par value, the par value for the purposes of this paragraph shall be the fair market value as of the date of issue. Within ten days after the making of such notes the carrier issuing the same shall file with the Commission a certificate of notification, in such form as may from time to time be determined and prescribed by the Commission, setting forth as nearly as may be the same matters as those required in respect of applications for authority to issue other securities: Provided, That in any subsequent funding of such notes the provisions of this section respecting other securities shall apply.

(10) The Commission shall require periodical or special reports from each carrier hereafter issuing any securities, including such notes, which shall show, in such detail as the Commission may require, the disposition made of such securities and the application of the proceeds thereof.

(11) Any security issued or any obligation or liability assumed by a carrier, for which under the provisions of this section the authorization of the Commission is required, shall be void, if issued or assumed without such authorization therefor having first been obtained, or if issued or assumed contrary to any term or condition of such order of authorization as modified by any order supplemental thereto entered prior to such issuance or assumption; but no security issued or obligation or liability assumed in accordance with all the terms and conditions of such an order of authorization therefor as modified by any order supplemental thereto entered prior to such issuance or assumption, shall be rendered void because of failure to comply with any provision of this section relating to procedure and other matters preceding the entry of such order of authorization. If any security so made void or any security in respect to which the assumption of obligation or liability is so made void, is acquired by any person for value and in good faith and without notice that the issue or assumption is void, such person may in a suit or action in any court of competent jurisdiction hold jointly and severally liable for the full amount of the damage sustained by him in respect thereof, the carrier which issued the security so made void, or assumed the obligation or liability so made void, and its directors, officers, attorneys, and other agents, who participated in any way in the authorizing, issuing, hypothecating, or selling of the security so made void or in the authorizing of the assumption of the obligation or liability so made void. In case any security so made void was directly acquired from the carrier issuing it the holder may at his option rescind the transaction and upon the surrender of the security recover the consideration given therefor. Any director, officer, attorney or agent of the carrier who knowingly assents to or concurs in any issue of securities or assumptions of obligation or liability forbidden by this section, or any sale or other disposition of securities contrary to the provisions of the Commission's order or orders in the premises, or any application not authorized by the Commission of the funds derived by the carrier through such sale or other disposition of such securities, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$1,000 nor more than \$10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court.

(12) After December 31, 1921, it shall be unlawful for any person to hold the position of officer or director of more than one carrier, unless such holding shall have been authorized by order of the Commission, upon due showing, in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby. After this section takes effect it shall be unlawful for any officer or director of any carrier to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale of any securities issued or to be issued by such carrier, or to share in any of the proceeds thereof, or to participate in the making or paying

of any dividends of an operating carrier from any funds properly included in capital account. Any violation of these provisions shall be a misdemeanor, and on conviction in any United States court having jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court. (Act Feb. 4, 1887, c. 104, § 20a, as added by Feb. 28, 1920, c. 91, § 439.)

§ 7920. Membership of Commission enlarged; appointments; terms; salaries.—The Commission is hereby enlarged so as to consist of eleven members, with terms of seven years, and each shall receive \$12,000 compensation annually. The qualifications of the members and the manner of payment of their salaries shall be as already provided by law. Such enlargement of the Commission shall be accomplished through appointment by the President, by and with the advice and consent of the Senate, of two additional Interstate Commerce Commissioners, one for a term expiring December 31, 1923, and one for a term expiring December 31, 1924. The terms of the present commissioners, or of any successor appointed to fill a vacancy caused by the death or resignation of any of the present commissioners, shall expire as heretofore provided by law. Their successors and the successors of the additional commissioners herein provided for shall be appointed for the full term of seven years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. Not more than six commissioners shall be appointed from the same political party. Hereafter the salary of the secretary of the Commission shall be \$7,500 a year. (Acts June 29, 1906, c. 3591, § 8, 34 Stat. 595; Aug. 1917, c. 50, § 1, 40 Stat. 270; Feb. 28, 1920, c. 91, § 440.)

Note.—See § 7908.

§ 7920a. Shipping schedules; port charges; placing shipment through railroads; through bill of lading.—(1) Every common carrier by water in foreign commerce, whose vessels are registered under the laws of the United States, shall file with the Commission, within thirty days after this section becomes effective and regularly thereafter as changes are made, a schedule or schedules showing for each of its steam vessels intended to load general cargo at ports in the United States for foreign destinations (a) the ports of loading, (b) the dates upon which such vessels will commence to receive freight and dates of sailing, (c) the route and itinerary such vessels will follow and the ports of call for which cargo will be carried.

(2) Upon application of any shipper a carrier by railroad shall make request for, and the carrier by water shall upon receipt of such request name, a specific rate applying for such sailing, and upon such commodity as shall be embraced in the inquiry, and shall name in connection with such rate, port charges, if any, which accrue in addition to the vessel's rates and are not otherwise published by the railway as in addition to or absorbed in the railway rate. Vessel rates, if conditioned upon quantity of shipment, must be so stated and separate rates may be provided for carload and less than carload shipments. The carrier by water, upon advices from a carrier by railroad, stating that the quoted rate is firmly accepted as applying upon a specifically named quantity of any commodity, shall, subject to such conditions as the Commission by regulation may prescribe, make firm reservation from unsold space in such steam vessel as shall be required for its transportation and shall so advise the carrier by railroad, in which advices shall be included the latest available information as to prospective sailing date of such vessel.

(3) As the matters so required to be stated in such schedule or schedules are changed or modified from time to time, the carrier shall file with the Commission such changes or modifications as early as practicable after such modification is ascertained. The Commission is authorized to make and publish regulations not inconsistent herewith governing the manner and form in which such carriers are to comply with the foregoing provisions. The Commission shall cause to be published in compact form, for the information of shippers of commodities throughout the country, the substance of such schedules, and furnish such publications to all railway carriers subject to this Act, in such quantities that railway carriers may

supply to each of their agents who receive commodities for shipment in such cities and towns as may be specified by the Commission, a copy of said publication; the intent being that each shipping community sufficiently important, from the standpoint of the export trade, to be so specified by the Commission shall have opportunity to know the sailings and routes, and to ascertain the transportation charges of such vessels engaged in foreign commerce. Each railway carrier to which such publication is furnished by the Commission is hereby required to distribute the same as aforesaid and to maintain such publication as it is issued from time to time, in the hands of its agents. The Commission is authorized to make such rules and regulations not inconsistent herewith respecting the distribution and maintenance of such publications in the several communities so specified as will further the intent of this section.

(4) When any consignor delivers a shipment of property to any of the places so specified by the Commission, to be delivered by a railway carrier to one of the vessels upon which space has been reserved at a specified rate previously ascertained, as provided herein, for the transportation by water from and for a port named in the aforesaid schedule, the railway carrier shall issue a through bill of lading to the point of destination. Such bill of lading shall name separately the charge to be paid for the railway transportation, water transportation, and port charges, if any, not included in the rail or water transportation charge; but the carrier by railroad shall not be liable to the consignor, consignee, or other person interested in the shipment after its delivery to the vessel. The Commission shall, in such manner as will preserve for the carrier by water the protection of limited liability provided by law, make such rules and regulations not inconsistent herewith as will prescribe the form of such through bill of lading. In all such cases it shall be the duty of the carrier by railroad to deliver such shipment to the vessel as a part of its undertaking as a common carrier.

(5) The issuance of a through bill of lading covering shipments provided for herein shall not be held to constitute "an arrangement for continuous carriage or shipment" within the meaning of this Act. (Act Feb. 4, 1887, c. 104, § 25, as added by Act Feb. 28, 1920, c. 91, § 441.)

§ 7920b. Promotion and development of inland water way transportation facilities.—It is hereby declared to be the policy of Congress to promote, encourage, and develop water transportation, service, and facilities, in connection with the commerce of the United States, and to foster and preserve in full vigor both rail and water transportation.

It shall be the duty of the Secretary of War, with the object of promoting, encouraging, and developing inland waterway transportation facilities in connection with the commerce of the United States, to investigate the appropriate types of boats suitable for different classes of such waterways; to investigate the subject of water terminals, both for inland waterway traffic and for through traffic by water and rail, including the necessary docks, warehouses, apparatus, equipment, and appliances in connection therewith, and also railroad spurs and switches connecting with such terminals, with a view to devising the types most appropriate for different locations, and for the more expeditious and economical transfer or interchange of passengers or property between carriers by water and carriers by rail; to advise with communities, cities, and towns regarding the appropriate location of such terminals, and to cooperate with them in the preparation of plans for suitable terminal facilities to investigate the existing status of water transportation upon the different inland waterways of the country, with a view to determining whether such waterways are being utilized to the extent of their capacity, and to what extent they are meeting the demands of traffic, and whether the water carriers utilizing such waterways are interchanging traffic with the railroads; and to investigate any other matter that may tend to promote and encourage inland water transportation. It shall also be the province and duty of the Secretary of War to compile, publish, and distribute, from time to time, such useful statistics, data, and information concerning transportation on inland waterways as he may deem to be of value to the commercial interests of the country.

The words "inland waterway" as used in this section shall be construed to include the Great Lakes. (Act Feb. 28, 1920, c. 91, § 500.)

§ 7920c. Safety devices for railroads.—The Commission may, after investigation, order any carrier by railroad subject to this Act, within a time specified in the order, to install automatic train-stop, or train-control devices or other safety devices, which comply with specifications and requirements prescribed by the Commission, upon the whole or any part of its railroad, such order to be issued and published at least two years before the date specified for its fulfillment: Provided, That a carrier shall not be held to be negligent because of its failure to install such devices upon a portion of its railroad not included in the order; and any action arising because of an accident happening upon such portion of its railroad shall be determined without consideration of the use of such devices upon another portion of its railroad. Any common carrier which refuses or neglects to comply with any order of the Commission made under the authority conferred by this section shall be liable to a penalty of \$100 for each day that such refusal or neglect continues, which shall accrue to the United States, and may be recovered in a civil action brought by the United States. (Act Feb. 4, 1887, c. 104, § 26, as added by Act Feb. 28, 1920, c. 91, § 441.)

§ 7920d. Title of law.—This Act may be cited as the "Interstate Commerce Act." (Act Feb. 4, 1887, c. 104, § 27, as added by Act Feb. 28, 1920, c. 91, § 441.)

§ 7920e. Partial invalidity of Transportation Act.—If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid such judgment shall not affect, impair, or invalidate the remainder of the Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment has been rendered. (Act Feb. 28, 1920, c. 91, Title V, § 502.)

Note.—This section is § 500 of the Transportation Act of 1920, for remainder of which see § 7884 and Note 2 thereunder.

TITLE LXIII.

TRUSTS AND COMBINATIONS IN RESTRAINT OF TRADE.

§ 7963. Labor or agricultural organizations.

Note.—Act July 19, 1919, c. 24, § 1, making appropriation for enforcement of the anti-trust laws, provides that "no part of this money shall be spent in the prosecution of any organization or individual for entering into any combination or agreement having in view the increasing of wages, shortening of hours or bettering the conditions of labor, or for any act done in furtherance thereof, not in itself unlawful: Provided further, That no part of this appropriation shall be expended for the prosecution of producers of farm products and associations of farmers who cooperate and organize in an effort to and for the purpose to obtain and maintain a fair and reasonable price for their products." The same provisions are found in Act Nov. 4, 1919, c. 93, § 1.

§ 7965. Eligibility of one person to official positions with more than one bank or other corporation at the same time.—From and after two years from the date of the approval of this Act no person shall at the same time be a director or other officer or employee of more than one bank, banking association or trust company, organized or operating under the laws of the United States, either of which has deposits, capital, surplus, and undivided profits aggregating more than \$5,000,000; and no private banker or person who is a director in any bank or trust company, organized and operating under the laws of a State, having deposits, capital, surplus, and undivided profits aggregating more than \$5,000,000, shall be eligible to be a director in any bank or banking association organized or operating under the laws of the United States. The eligibility of a director, officer, or employee under the foregoing provisions shall be determined by the average amount of deposits, capital, surplus, and undivided profits as shown in

the official statements of such bank, banking association, or trust company filed as provided by law during the fiscal year next preceding the date set for the annual election of directors, and when a director, officer, or employee has been elected or selected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter under said election or employment.

No bank, banking association or trust company, organized or operating under the laws of the United States, in any city or incorporated town or village of more than two hundred thousand inhabitants, as shown by the last preceding decennial census of the United States, shall have as a director or other officer or employee any private banker or any director or other officer or employee of any other bank, banking association or trust company located in the same place: Provided, That nothing in this section shall apply to mutual savings banks not having a capital stock represented by shares: Provided further, That a director or other officer or employee of such bank, banking association, or trust company may be a director or other officer or employee of not more than one other bank or trust company organized under the laws of the United States or any State where the entire capital stock of one is owned by stockholders in the other: And provided further, That nothing contained in this section shall forbid a director of class A of a Federal reserve bank, as defined in the Federal Reserve Act from being an officer or director or both an officer and director in one member bank: And provided further, That nothing in this Act shall prohibit any private banker or any officer, director, or employee of any member bank or class A director of a Federal Reserve Bank, who shall first procure the consent of the Federal Reserve Board, which board is hereby authorized, at its discretion, to grant, withhold, or revoke such consent, from being an officer, director, or employee of not more than two other banks, banking associations, or trust companies, whether organized under the laws of the United States or any State, if such other bank, banking association, or trust company is not in substantial competition with such member bank.

The consent of the Federal Reserve Board may be procured before the person applying therefor has been elected as a class A director of a Federal reserve bank or as a director of any member bank.

From and after two years from the date of the approval of this Act no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than \$1,000,000, engaged in whole or in part in commerce, other than banks, banking associations, trust companies and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter.

When any person elected or chosen as a director or officer or selected as an employee of any bank or other corporation subject to the provisions of this Act is eligible at the time of his election or selection to act for such bank or other corporation in such capacity his eligibility to act in such capacity shall not be affected and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the affairs of such bank or other corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment. (Acts Oct. 15, 1914, c. 323, § 8, 38 Stat. 732; May 15, 1916, c. 120, 39 Stat. 121; May 26, 1920, c. 206.)

§ 7967. Transactions by common carrier with corporation or partnership where same person is interested in both.

Note.—Act Feb. 28, 1920, c. 91, § 500, provides that "the effective date on and after which the provisions of this section shall become and be effective is hereby deferred and extended to January 1, 1921: Provided, That such extension shall not apply in the case of any corporation organized after January 12, 1918."

TITLE LXIV.

BILLS OF LADING.

§ 7976. **Bills of lading; limitation on liability; rates dependent on declared value; time for notices, filing claims, or starting suits.**—Any common carrier, railroad, or transportation company subject to the provisions of this Act receiving property for transportation from a point in one State or Territory or the District of Columbia to a point in another State, Territory, District of Columbia, or from any point in the United States to a point in an adjacent foreign country shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass within the United States or within an adjacent foreign country when transported on a through bill of lading, and no contract, receipt, rule, regulation, or other limitation of any character whatsoever, shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed; and any such common carrier, railroad, or transportation company, so receiving property for transportation from a point in one State, Territory, or the District of Columbia to a point in another State or Territory, or from a point in a State or Territory to a point in the District of Columbia, or from any point in the United States to a point in an adjacent foreign country, or for transportation wholly within a Territory shall be liable to the lawful holder of said receipt or bill of lading or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage, or injury to such property caused by it or by any such common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass within the United States or within an adjacent foreign country when transported on a through bill of lading, notwithstanding any limitation of liability or limitation of the amount of recovery or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule, regulation, or in any tariff filed with the Interstate Commerce Commission; and any such limitation, without respect to the manner or form in which it is sought to be made is hereby declared to be unlawful and void: *Provided, That if the loss, damage, or injury occurs while the property is in the custody of a carrier by water the liability of such carrier shall be determined by and under the laws and regulations applicable to transportation by water, and the liability of the initial carrier shall be the same as that of such carrier by water;* *Provided, however, That the provisions hereof respecting liability for full actual loss, damage, or injury, notwithstanding any limitation of liability or recovery or representation or agreement or release as to value, and declaring any such limitation to be unlawful and void, shall not apply, first, to baggage carrier on passenger trains or boats, or trains or boats carrying passengers; second, to property, except ordinary live stock, received for transportation concerning which the carrier shall have been or shall hereafter be expressly authorized or required by order of the Interstate Commerce Commission to establish and maintain rates dependent upon the value declared in writing by the shipper or agreed upon in writing as the released value of the property, in which case such declaration or agreement shall have no other effect than to limit liability and recovery to an amount not exceeding the value so declared or released, and shall not, so far as relates to values, be held to be a violation of section*

ten of this Act to regulate commerce, as amended; and any tariff schedule which may be filed with the Commission pursuant to such order shall contain specific reference thereto and may establish rates varying with the value so declared or agreed upon; and the Commission is hereby empowered to make such order in cases where rates dependent upon and varying with declared or agreed values would, in its opinion, be just and reasonable under the circumstances and conditions surrounding the transportation. The term "ordinary live stock" shall include all cattle, swine, sheep, goats, horses, and mules, except such as are chiefly valuable for breeding, racing, show purposes, or other special uses: Provided further, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under the existing law: *Provided further, That it shall be unlawful for any such common carrier to provide by rule, contract, regulation, or otherwise a shorter period for giving notice of claims than ninety days, for the filing of claims than four months, and for the institution of suits than two years, such period for institution of suits to be computed from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice;* Provided, however, That if the loss, damage, or injury complained of was due to delay or damage while being loaded or unloaded, or damaged in transit by carelessness or negligence, then no notice of claim nor filing of claim shall be required as a condition precedent to recovery. (Acts Feb. 4, 1887, c. 104, § 20, 24 Stat. 386; June 29, 1906, c. 3591, § 7, 34 Stat. 595; March 4, 1915, c. 176, § 1, 38 Stat. 1196; Aug. 9, 1916, c. 301, 39 Stat. 441; Feb. 28, 1920, c. 91, §§ 434-438.)

Note.—See note to § 7916. The amendments of 1920 are shown in italics. § 10 of Act Feb. 4, 1887, c. 104, is § 7895.
§ 7977. See note to § 7916.

TITLE LXV.

COMMON CARRIERS.

CHAPTER 3.

DISPUTES BETWEEN COMMON CARRIERS AND THEIR EMPLOYEES.

§§ 8078-8088. Arbitration of disputes.

Note.—See §§ 8088a-8088g, establishing Railroad Boards of Labor Adjustment and the Railroad Labor Board and prescribing their powers and functions.

§ 8088a. Definitions in Labor Board Act.—When used in this title—(1) the term "carrier" includes any express company, sleeping car company, and any carrier by railroad, subject to the Interstate Commerce Act, except a street, interurban, or suburban electric railway not operating as a part of a general steam railroad system of transportation; (2) the term "Adjustment Board" means any Railroad Board of Labor Adjustment established under section 302; (3) the term "Labor Board" means the Railroad Labor Board; (4) the term "commerce" means commerce among the several States or between any State, Territory, or the District of Columbia and any foreign nation, or between any Territory or the District of Columbia and any State, or between any Territory and any other Territory, or between any Territory and the District of Columbia, or within any Territory or the District of Columbia, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign nation; and (5) the term "subordinate official" includes officials of carriers of such class or rank as the Commission shall designate by regulation formulated and issued after such notice and hearing as the Commission may prescribe, to the carriers, and employees and subordinate officials of carriers, and organizations thereof, directly to be affected by such regulations. (Act Feb. 28, 1920 c. 91, Title III, § 300.)

Note.—§ 302 is now § 8088c.

§ 8088b. Duty to avoid interruption of traffic and to settle disputes in conference if possible.—It shall be the duty of all carriers and their officers, employees, and agents to exert every reasonable effort and adopt every available means to avoid any interruption to the operation of any carrier growing out of any dispute between the carrier and the employees or subordinate officials thereof. All such disputes shall be considered and, if possible, decided in conference between representatives designated and authorized so to confer by the carriers, or the employees or subordinate officials thereof, directly interested in the dispute. If any dispute is not decided in such conference, it shall be referred by the parties thereto to the board which under the provisions of this title is authorized to hear and decide such dispute. (Act Feb. 28, 1920, c. 91, Title III, § 301.)

§ 8088c. Establishment of Adjustment Boards.—Railroad Boards of Labor Adjustment may be established by agreement between any carrier, group of carriers, or the carriers as a whole, and any employees or subordinate officials of carriers, or organization or group of organizations thereof. (Act Feb. 28, 1920, c. 91, Title III, § 302.)

§ 8088d. Functions of Adjustment Boards.—Each such Adjustment Board shall, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon the written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, (3) upon the Adjustment Board's own motion, or (4) upon the request of the Labor Board whenever such board is of the opinion that the dispute is likely substantially to interrupt commerce, receive for hearing, and as soon as practicable and with due diligence decide, any dispute involving only grievances, rules, or working conditions, not decided as provided in section 301, between the carrier and its employees or subordinate officials, who are, any organization thereof which is, in accordance with the provisions of section 302, represented upon any such Adjustment Board. (Act Feb. 28, 1920, c. 91, Title III, § 203.)

Note.—§ 301 is now § 8088b; § 302 is now § 8088c.

§ 8088e. Creation and composition of Railroad Labor Board.—There is hereby established a board to be known as the "Railroad Labor Board" and to be composed of nine members as follows:

(1) Three members constituting the labor group, representing the employees and subordinate officials of the carriers, to be appointed by the President, by and with the advice and consent of the Senate, from not less than six nominees whose nominations shall be made and offered by such employees in such manner as the Commission shall by regulation prescribe;

(2) Three members, constituting the management group, representing the carriers, to be appointed by the President, by and with the advice and consent of the Senate, from not less than six nominees whose nominations shall be made and offered by the carriers in such manner as the Commission shall by regulation prescribe; and

(3) Three members, constituting the public group, representing the public, to be appointed directly by the President, by and with the advice and consent of the Senate.

Any vacancy on the Labor Board shall be filled in the same manner as the original appointment. (Act Feb. 28, 1920, c. 91, Title III, § 304.)

§ 8088f. Selection of members of Labor Board.—If either the employees or the carriers fail to make nominations and offer nominees in accordance with the regulations of the Commission, as provided in paragraphs (1) and (2) of section 304, within thirty days after the passage of this Act in case of any original appointment to the office of member of the Labor Board, or in case of a vacancy in any such office within fifteen days after such vacancy occurs, the President shall thereupon directly make the appointment, by and with the advice and consent of the Senate. In making any such appointment the President shall, as far as he deems it practicable, select an individual associated in interest with the carriers or employees thereof, whichever he is to represent. (Act Feb. 28, 1920, c. 91, Title III, § 305.)

Note.—§ 304 is now § 8088e.

§ 8088g. Term of members; disqualification by personal interest.—(a) Any member of the Labor Board who during his term of office is an active member or in the employ of or holds any office in any organization of employees or subordinate officials, or any carrier, or owns any stock or bond thereof, or is pecuniarily interested therein, shall at once become ineligible for further membership upon the Labor Board; but no such member is required to relinquish honorary membership in, or his rights in any insurance or pension or other benefit fund maintained by, any organization of employees or subordinate officials or by a carrier.

(b) Of the original members of the Labor Board, one from each group shall be appointed for a term of three years, one for two years, and one for one year. Their successors shall hold office for terms of five years, except that any member appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Each member shall receive from the United States an annual salary of \$10,000. A member may be removed by the President for neglect of duty or malfeasance in office, but for no other cause. (Act Feb. 28, 1920, c. 91, Title III, § 306.)

§ 8088h. Functions of Labor Board; hearings and decisions.—(a) The Labor Board shall hear, and as soon as practicable and with due diligence decide, any dispute involving grievances, rules, or working conditions, in respect to which any Adjustment Board certifies to the Labor Board that in its opinion the Adjustment Board has failed or will fail to reach a decision within a reasonable time, or in respect to which the Labor Board determines that any Adjustment Board has so failed or is not using due diligence in its consideration thereof. In case the appropriate Adjustment Board is not organized under the provisions of section 302, the Labor Board, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon a written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, or (3) upon the Labor Board's own motion if it is of the opinion that the dispute is likely substantially to interrupt commerce, shall receive for hearing, and as soon as practicable and with due diligence decide, any dispute involving grievances, rules, or working conditions which is not decided as provided in section 301 and which such Adjustment Board would be required to receive for hearing and decision under the provisions of section 303.

(b) The Labor Board, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon a written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, or (3) upon the Labor Board's own motion if it is of the opinion that the dispute is likely substantially to interrupt commerce, shall receive for hearing, and as soon as practicable and with due diligence decide, all disputes with respect to the wages or salaries of employees or subordinate officials of carriers, not decided as provided in section 301. The Labor Board may upon its own motion within ten days after the decision, in accordance with the provisions of section 301, of any dispute with respect to wages or salaries of employees or subordinate officials of carriers, suspend the operation of such decision if the Labor Board is of the opinion that the decision involves such an increase in wages or salaries as will be likely to necessitate a substantial readjustment of the rates of any carrier. The Labor Board shall hear any decision, so suspended and as soon as practicable and with due diligence decide to affirm or modify such suspended decision.

(c) A decision by the Labor Board under the provisions of paragraph (a) or (b) of this section shall require the concurrence therein of at least 5 of the 9 members of the Labor Board: Provided, That in case of any decision under paragraph (b), at least one of the representatives of the public shall concur in such decision. All decisions of the Labor Board shall be entered upon the records of the board and copies thereof, together with such statement of facts bearing thereon as the board may deem proper, shall be immediately communicated to the parties to the dispute, the President, each Adjustment Board, and the Commission, and shall be given further publicity in such manner as the Labor Board may determine.

(d) All the decisions of the Labor Board in respect to wages or salaries and of the Labor Board or an Adjustment Board in respect to working conditions of employees or subordinate officials of carriers shall establish rates of wages and salaries and standards of working conditions which in the opinion of the board are just and reasonable. In determining the justness and reasonableness of such wages and salaries or working conditions the board shall, so far as applicable, take into consideration among other relevant circumstances:

- (1) The scales of wages paid for similar kinds of work in other industries;
- (2) The relation between wages and the cost of living;
- (3) The hazards of the employment;
- (4) The training and skill required;
- (5) The degree of responsibility;
- (6) The character and regularity of the employment; and
- (7) Inequalities of increases in wages or of treatment, the result of previous wage orders or adjustments. (Act Feb. 28, 1920, c. 91, Title III, § 307.)

Note.—§ 301 is now § 8088b; § 302 is now § 8088c; § 303 is now § 8088d.

§ 8088l. Chairman and offices of Labor Board; investigations; regulations; publications.—The Labor Board (1) shall elect a chairman by majority vote of its members;

(2) Shall maintain central offices in Chicago, Illinois, but the Labor Board may, whenever it deems it necessary, meet at such other place as it may determine;

(3) Shall investigate and study the relations between carriers and their employees, particularly questions relating to wages, hours of labor, and other conditions of employment and the respective privileges, rights, and duties of carriers and employees, and shall gather, compile, classify, digest, and publish, from time to time, data and information relating to such questions to the end that the Labor Board may be properly equipped to perform its duties under this title and that the members of the Adjustment Boards and the public may be properly informed;

(4) May make regulations necessary for the efficient execution of the functions vested in it by this title; and

(5) Shall at least annually collect and publish the decisions and regulations of the Labor Board and the Adjustment Boards and all court and administrative decisions and regulations of the Commission in respect to this title, together with a cumulative index-digest thereof. (Act Feb. 28, 1920, c. 91, Title III, § 308.)

§ 8088j. Persons entitled to hearing before boards.—Any party to any dispute to be considered by an Adjustment Board or by the Labor Board shall be entitled to a hearing either in person or by counsel. (Act Feb. 28, 1920, c. 91, Title III, § 309.)

§ 8088k. Witnesses and evidence before Labor Board.—(a) For the efficient administration of the functions vested in the Labor Board by this title, any member thereof may require, by subpoena issued and signed by himself, the attendance of any witness and the production of any book, paper, document, or other evidence from any place in the United States at any designated place of hearing, and the taking of a deposition before any designated person having power to administer oaths. In the case of a deposition the testimony shall be reduced to writing by the person taking the deposition or under his direction, and shall then be subscribed to by the deponent. Any member of the Labor Board may administer oaths and examine any witness. Any witness summoned before the board and any witness whose deposition is taken shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

(b) In case of failure to comply with any subpoena or in case of the contumacy of any witness appearing before the Labor Board, the board may invoke the aid of any United States district court. Such court may thereupon order the witness to comply with the requirements of such subpoena, or to give evidence touching the matter in question, as the case may be. Any failure to obey such order may be punished by such court as a contempt thereof.

(c) No person shall be excused from so attending and testifying or deposing, nor from so producing any book, paper, document, or other evidence on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing, as to which in obedience to a subpoena and under oath, he may so testify or produce evidence, documentary or otherwise. But no person shall be exempt from prosecution and punishment for perjury committed in so testifying. (Act Feb. 28, 1920, c. 91, Title III, § 310.)

§ 8088l. Access by board to records; papers and accounts; duty to furnish information; transfer of records by President.—(a) When necessary to the efficient administration of the functions vested in the Labor Board by this title, any member, officer, employee, or agent thereof, duly authorized in writing by the board, shall at all reasonable times for the purpose of examination have access to and the right to copy any book, account, record, paper, or correspondence relating to any matter which the board is authorized to consider or investigate. Any person who upon demand refuses any duly authorized member, officer, employee, or agent of the Labor Board such right of access or copying, or hinders, obstructs, or resists him in the exercise of such right, shall upon conviction thereof be liable to a penalty of \$500 for each such offense. Each day during any part of which such offense continues shall constitute a separate offense. Such penalty shall be recoverable in a civil suit brought in the name of the United States, and shall be covered into the Treasury of the United States as miscellaneous receipts.

(b) Every officer or employee of the United States, whenever requested by any member of the Labor Board or an Adjustment Board duly authorized by the board for the purpose, shall supply to such board any data or information pertaining to the administration of the functions vested in it by this title, which may be contained in the records of his office.

(c) The President is authorized to transfer to the Labor Board any books, papers, or documents pertaining to the administration of the functions vested in the board by this title, which are in the possession of any agency, or railway board of adjustment in connection therewith, established for executing the powers granted the President under the Federal Control Act and which are no longer necessary to the administration of the affairs of such agency. (Act Feb. 28, 1920, c. 91, Title III, § 311.)

§ 8088m. Wages prior to September 1, 1920.—Prior to September 1, 1920, each carrier shall pay to each employee or subordinate official thereof wages or salary at a rate not less than that fixed by the decisions of any agency, or railway board of adjustment in connection therewith, established for executing the powers granted the President under the Federal Control Act, in effect in respect to such employee or subordinate official immediately preceding 12.01 a. m. March 1, 1920. Any carrier acting in violation of any provision of this section shall upon conviction thereof be liable to a penalty of \$100 for each such offense. Each such action with respect to any such employee or subordinate official and each day or portion thereof during which the offense continues shall constitute a separate offense. Such penalty shall be recoverable in a civil suit brought in the name of the United States, and shall be covered into the Treasury of the United States as miscellaneous receipts. (Act Feb. 28, 1920, c. 91, Title III, § 312.)

§ 8088n. Determination of violation of decision of boards.—The Labor Board, in case it has reason to believe that any decision of the Labor Board or of an Adjustment Board is violated by any carrier, or employee or subordinate official, or organization thereof, may upon its own motion after due notice and hearing to all persons directly interested in such violation, determine whether in its opinion such violation has occurred and make public its decision in such manner as it may determine. (Act Feb. 28, 1920, c. 91, Title III, § 313.)

§ 8088o. Officers and employees and expenses of Labor Board.—The Labor Board may (1) appoint a secretary, who shall receive from the United

States an annual salary of \$5,000; and (2) subject to the provisions of the civil-service laws, appoint and remove such officers, employees, and agents; and make such expenditures for rent, printing, telegrams, telephone, law books, books of reference, periodicals, furniture, stationery, office equipment, and other supplies and expenses, including salaries, traveling expenses of its members, secretary, officers, employees, and agent, and witness fees, as are necessary for the efficient execution of the functions vested in the board by this title and as may be provided for by Congress from time to time. All of the expenditures of the Labor Board shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the chairman of the Labor Board. (Act Feb. 28, 1920, c. 91, Title III, § 314.)

§ 8088p. Appropriation for expenses of Labor Board.—There is hereby appropriated for the fiscal year ending June 30, 1920, out of any money in the Treasury not otherwise appropriated, the sum of \$50,000, or so much thereof as may be necessary, to be expended by the Labor Board, for defraying the expenses of the maintenance and establishment of the board, including the payment of salaries as provided in this title. (Act Feb. 28, 1920, c. 91, Title III, § 315.)

§ 8088q. Effect of Act on powers and duties of Board of Mediation and Conciliation.—The powers and duties of the Board of Mediation and Conciliation created by the Act approved July 15, 1913, shall not extend to any dispute which may be received for hearing and decision by any Adjustment Board or the Labor Board. (Act Feb. 28, 1920, c. 91, Title III, § 316.)

Note.—See §§ 8079, 8088.

TITLE LXVI.

LABOR.

CHAPTER 2.

COMPENSATION FOR INJURIES TO FEDERAL EMPLOYEES.

§ 8103. Compensation for disability or death of employees.

Note.—Act July 11, 1919, c. 7, § 11, provides that "all of the provisions of the Act of Congress approved September 7, 1916, entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes,' are hereby extended to employees of the government of the District of Columbia so far as they may be applicable, except to those members of the police and fire departments of the District of Columbia who are pensioned or pensionable under the provisions of the District of Columbia Appropriation Act approved September 1, 1916. Such compensation as the commission provided for in said Act may award to employees of the government of the District of Columbia shall be paid in the manner provided by law for the payment of the general expenses of the Government of the District of Columbia. For carrying out the provisions of this section, there is appropriated \$5,000; and the Commissioners of the District of Columbia shall submit annually to Congress, through the Secretary of the Treasury, estimates of appropriations necessary for the foregoing purpose."

§ 8112a. Employees of Emergency Fleet Corporation.—The compensation heretofore or hereafter paid by the United States Shipping Board Emergency Fleet Corporation to or on account of employees for disability or death resulting from personal injuries sustained while in the performance of their duties shall be in full satisfaction of the claims of such employees or their legal representatives against the United States. (Act Dec. 24, 1919, c. 17, § 1.)

TITLE LXVII.

AGRICULTURE.

CHAPTER 3.

WAREHOUSES.

§ 8208. Bond of warehouseman; security; additional bond.—Each warehouseman applying for a license to conduct a warehouse in accordance with this Act shall, as a condition to the granting thereof, execute and file with the Secretary of Agriculture a good and sufficient bond to the United States to secure the faithful performance of his obligations as a warehouseman under the laws of the State, District, or Territory in which he is conducting such warehouse, as well as under the terms of this Act and the rules and regulations prescribed hereunder, and of such additional obligations as a warehouseman as may be assumed by him under contracts with the respective depositors of agricultural products in such warehouse. Said bond shall be in such form and amount, shall have such surety or sureties, subject to service of process in suits on the bond within the State, District or Territory in which the warehouse is located, and shall contain such terms and conditions as the Secretary of Agriculture may prescribe to carry out the purposes of this Act. Whenever the Secretary of Agriculture shall determine that a bond approved by him is, or for any cause has become, insufficient, he may require an additional bond or bonds to be given by the warehouseman concerned, conforming with the requirements of this section, and unless the same be given within the time fixed by a written demand therefor the license of such warehouseman may be suspended or revoked. (Acts Aug. 11, 1916, c. 313, part C, § 6, 39 Stat. 486; July 24, 1919, c. 26, § 1.)

§ 8220. Contents of receipts.—Every receipt issued for agricultural products stored in a warehouse licensed under this Act shall embody within its written or printed terms (a) the location of the warehouse in which the agricultural products are stored; (b) the date of issue of the receipt; (c) the consecutive number of the receipt; (d) a statement whether the agricultural products received will be delivered to the bearer, to a specified person, or to a specified person or his order; (e) the rate of storage charges; (f) a description of the agricultural products received, showing the quantity thereof, or, in case of agricultural products customarily put up in bales or packages, a description of such bales or packages by marks, numbers, or other means of identification and the weight of such bales or packages; (g) the grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made: Provided, That such grade or other class shall be stated according to the official standard of the United States applicable to such agricultural products as the same may be fixed and promulgated under authority of law: Provided further, That until such official standards of the United States for any agricultural product or products have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard or in accordance with such rules and regulations not inconsistent herewith as may be prescribed by the Secretary of Agriculture; (h) a statement that the receipt is issued subject to the United States warehouse Act and the rules and regulations prescribed thereunder; (i) if the receipt be issued for agricultural products of which the warehouseman is owner, either solely or jointly or in common with others,

the fact of such ownership; (j) a statement of the amount of advances made and liabilities incurred for which the warehouseman claims a lien: Provided, That if the precise amount of such advances made or of such liabilities incurred be at the time of the issue of the receipt unknown to the warehouseman or his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof shall be sufficient; (k) such other terms and conditions within the limitations of this Act as may be required by the Secretary of Agriculture; and (l) the signature of the warehouseman, which may be made by his authorized agent: Provided, That unless otherwise required by the law of the State in which the warehouse is located, when requested by the depositor of other than fungible agricultural products, a receipt omitting compliance with subdivision (g) of this section may be issued. (Act Aug. 11, 1916, c. 313, part C, § 18, 39 Stat. 488; July 24, 1919, c. 26, § 1.)

CHAPTER 4.

EXPERIMENT STATIONS.

§ 8256. **Form of financial statements.**—The Secretary of Agriculture shall prescribe the form of the annual financial statement required under the above Acts, ascertain whether the expenditures are in accordance with their provisions, coordinate the work of the Department of Agriculture with that of the State agricultural colleges and experiment stations in the lines authorized in said Acts, and make report thereon to Congress. (Acts March 2, 1901, c. 805, 31 Stat. 935; July 24, 1919, c. 26, § 1.)

TITLE LXVIII.

ANIMALS AND BIRDS.

CHAPTER 1.

MEAT AND DAIRY PRODUCTS.

§ 8258a. **Labeling horse meat for transportation; application of laws to horse meat and its products.**—Hereafter, no person, firm, or corporation or officer, agent, or employee thereof shall transport or offer for transportation, and no carrier of interstate or foreign commerce, shall transport or receive for transportation from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia or to any place under the jurisdiction of the United States or to any foreign country any of such meat or food products thereof unless plainly and conspicuously labeled, marked, branded or tagged "Horse-meat" or "Horse-meat Product" as the case may be, under such rules and regulations as may be prescribed by the Secretary of Agriculture. All penalties, terms and provisions in said Act, as amended, except the exemption therein applying to animals slaughtered by any farmer on a farm, to retail butchers and retail dealers in meat food products supplying their customers, are hereby made applicable to horses, their carcasses, parts of carcasses and meat food products thereof, and the establishments and other places where such animals are slaughtered or the meat or meat food products thereof are prepared or packed for the interstate or foreign commerce, and to all persons, firms, corporations and officers, agents and employees thereof who slaughter such animals or prepare or handle such meat or meat food products for interstate or foreign commerce. (Act July 24, 1919, c. 26, § 1.)

CHAPTER 2.

DISEASED ANIMALS.

§ 8272a. **Compensation to owners for slaughter of diseased animals; shipment of tubercular cattle.**—In carrying out the purpose of this appropriation, if in the opinion of the Secretary of Agriculture, it shall be necessary

to destroy tuberculous animals and to compensate owners for loss thereof, he may, in his discretion, and in accordance with such rules and regulations as he may prescribe, expend in the city of Washington or elsewhere out of the moneys of this appropriation, such sums as he shall determine to be necessary, within the limitations above provided, for the reimbursement of owners of animals so destroyed, in cooperation with such States, Territories, counties, or municipalities, as shall by law or by suitable action in keeping with its authority in the matter, and by rules and regulations adopted and enforced in pursuance thereof, provide inspection of tuberculous animals and for compensation to owners of animals so destroyed, but no part of the money hereby appropriated shall be used in compensating owners of such animals except in cooperation with and supplementary to payments to be made by State, Territory, county, or municipality where condemnation of such animals shall take place; nor shall any payment be made hereunder as compensation for or on account of any such animal destroyed if at the time of inspection or test of such animal or at the time of condemnation thereof, it shall belong to or be upon the premises of any person, firm, or corporation, to which it has been sold, shipped, or delivered for the purpose of being slaughtered: Provided further, That out of the money hereby appropriated, no payment as compensation for any tuberculous animal destroyed shall exceed one-third of the difference between the appraised value of such animal and the value of the salvage thereof; that no payment hereunder shall exceed the amount paid or to be paid by the State, Territory, county, or municipality, where the animal shall be condemned; and that in no case shall any payment hereunder be more than \$25 for any grade animal or more than \$50 for any pure-bred animal, and no payment shall be made unless the owner has complied with all lawful quarantine regulations: And provided further, That the Act approved May 29, 1884 (Twenty-third Statutes at Large, page 31), be, and the same is hereby amended to permit cattle which have reacted to the tuberculin test to be shipped, transported, or moved from one State, Territory, or the District of Columbia, to any other State, Territory, or the District of Columbia, for immediate slaughter, in accordance with such rules and regulations as shall be prescribed by the Secretary of Agriculture: And provided further, That the Secretary of Agriculture may, in his discretion, and under such rules and regulations as he may prescribe, permit cattle which have been shipped for breeding or feeding purposes from one State, Territory, or the District of Columbia, to another State, Territory, or the District of Columbia, and which have reacted to the tuberculin test subsequent to such shipment, to be reshipped in interstate commerce to the original owner. (Act July 24, 1919, c. 26, § 1.)

§ 8292. Appropriation for eradicating animal diseases; appraisement of animals purchased.—In case of an emergency arising out of the existence of foot-and-mouth disease, rinderpest, contagious pleuropneumonia, or other contagious or infectious disease of animals which, in the opinion of the Secretary of Agriculture, threatens the live-stock industry of the country, he may expend in the city of Washington or elsewhere, out of any money in the Treasury not otherwise appropriated, the sum of \$1,000,000, which sum is hereby appropriated, or so much thereof as he determines to be necessary, in the arrest and eradication of any such disease, including the payment of claims growing out of past and future purchases and destruction, in cooperation with the States, of animals affected by or exposed to, or of materials contaminated by or exposed to, any such disease, wherever found and irrespective of ownership, under like or substantially similar circumstances, when such owner has complied with all lawful quarantine regulations: Provided, That the payment for animals hereafter purchased may be made on appraisement based on the meat, dairy, or breeding value, but in case of appraisement based on breeding value no appraisement of any animal shall exceed three times its meat or dairy value, and except in case of an extraordinary emergency, to be determined by the Secretary of Agriculture, the payment by the United States Government for any animal shall not exceed one-half of any such appraisements. (Acts March 4, 1917, c. 179, 39 Stat. 1167; July 24, 1919, c. 26, § 1.)

TITLE LXIX.

FOOD, DRUGS, AND LIQUORS.

CHAPTER 1.

FOOD AND DRUGS GENERALLY.

§ 8340. Term "misbranded" defined.

Note.—Act July 24, 1919, c. 26, § 1, provides that "the word 'package' where it occurs the second and last time in" this section "shall include and shall be construed to include wrapped meats inclosed in papers or other materials as prepared by the manufacturers thereof for sale."

CHAPTER 2.

INTOXICATING LIQUORS.

§ 8350a. **Manufacture, sale, or importation of liquors during war or demobilization.**—After June thirtieth, nineteen hundred and nineteen, until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States, for the purpose of conserving the man power of the Nation, and to increase efficiency in the production of arms, munitions, ships, food, and clothing for the Army and Navy, it shall be unlawful to sell for beverage purposes any distilled spirits, and during said time no distilled spirits held in bond shall be removed therefrom for beverage purposes except for export. After May first, nineteen hundred and nineteen, until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States, no grains, cereals, fruits, or other food products shall be used in the manufacture or production of beer, wine, or other intoxicating malt or vinous liquor for beverage purposes. After June thirtieth, nineteen hundred and nineteen, until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States, no beer, wine, or other intoxicating malt or vinous liquor shall be sold for beverage purposes except for export. The Commissioner of Internal Revenue is hereby authorized and directed to prescribe rules and regulations, subject to the approval of the Secretary of the Treasury, in regard to the manufacture and sale of distilled spirits and removal of distilled spirits held in bond after June Thirtieth, nineteen hundred and nineteen, until this Act shall cease to operate, for other than beverage purposes; also in regard to the manufacture, sale, and distribution of wine for sacramental, medicinal, or other than beverage uses. After the approval of this Act no distilled, malt, vinous, or other intoxicating liquors shall be imported into the United States during the continuance of the present war and period of demobilization: Provided, That this provision against importation shall not apply to shipments en route to the United States at the time of the passage of this Act.

Any person who violates any of the foregoing provisions shall be punished by imprisonment not exceeding one year, or by fine not exceeding \$1,000, or by both such imprisonment and fine: Provided, That the President of the United States be, and hereby is, authorized and empowered, at any time after the passage of this Act, to establish zones of such size as he may deem advisable about coal mines, munition factories, shipbuilding plants, and such other plants for war material as may seem to him to

require such action whenever in his opinion the creation of such zones is necessary to, or advisable in, the proper prosecution of the war, and that he is hereby authorized and empowered to prohibit the sale, manufacture, or distribution of intoxicating liquors in such zones, and that any violation of the President's regulations in this regard shall be punished by imprisonment for not more than one year, or by fine of not more than \$1,000, or by both such fine and imprisonment: Provided further, That nothing in this Act shall be construed to interfere with the power conferred upon the President by section fifteen [§ 10194, this Code] of the food-control Act, approved August tenth, nineteen hundred and seventeen. (Res. Sept. 12, 1918, No. 40, c. 170, 40 Stat.; Act Nov. 21, 1918, c. 212, § 1, 40 Stat.)

Note.—Section 2 of the Act last cited provides that "under such rules, regulations, and bonds as the Secretary of the Treasury may prescribe, distilled spirits or alcohol produced prior to October third, nineteen hundred and seventeen, from products the growth of the island of Porto Rico may be admitted from said island into the United States for industrial purposes in the arts and sciences. Such alcohol or distilled spirits shall not be used for beverage purposes nor in the production of any article used as a beverage. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 or imprisoned not more than two years. He shall, in addition, be liable to double the tax evaded, together with the tax, to be collected by assessment or on any bond given."

§ 8350b. Definitions in war-time prohibition enforcement Act.—The term "War Prohibition Act" used in this Act shall mean the provisions of any Act or Acts prohibiting the sale and manufacture of intoxicating liquors until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States. The words "beer, wine, or other intoxicating malt or vinous liquors" in the War Prohibition Act shall be hereafter construed to mean any such beverages which contain one-half of 1 per centum or more of alcohol by volume: Provided, That the foregoing definition shall not extend to dealcoholized wine nor to any beverage or liquid produced by the process by which beer, ale, porter or wine is produced, if it contains less than one-half of 1 per centum of alcohol by volume, and is made as prescribed in section 37 of Title II of this Act, and is otherwise denominated than as beer, ale, or porter, and is contained and sold in, or from, such sealed and labeled bottles, casks, or containers as the commissioner may by regulation prescribe. (Act Oct. 28, 1919, c. 85, Title I, § 1.)

Note.—§ 37 of Title II is § 83521.

§ 8350c. Prosecutions under such Act.—The Commissioner of Internal Revenue, his assistants, agents, and inspectors, shall investigate and report violations of the War Prohibition Act to the United States attorney for the district in which committed, who shall be charged with the duty of prosecuting, subject to the direction of the Attorney General, the offenders as in the case of other offenses against laws of the United States; and such Commissioner of Internal Revenue, his assistants, agents, and inspectors may swear out warrants before United States commissioners or other officers or courts authorized to issue the same for the apprehension of such offenders, and may, subject to the control of the said United States attorney, conduct the prosecution at the committing trial for the purpose of having the offenders held for the action of a grand jury. (Act Oct. 28, 1919, c. 85, Title I, § 2.)

§ 8350d. War-time liquor nuisances.—Any room, house, building, boat, vehicle, structure, or place of any kind where intoxicating liquor is sold, manufactured, kept for sale, or bartered in violation of the War Prohibition Act, and all intoxicating liquor and all property kept and used in maintaining such a place, is hereby declared to be a public and common nuisance, and any person who maintains or assists in maintaining such public and common nuisance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$100 nor more than \$1,000, or be imprisoned for not less than thirty days or more than one year, or both. If a person has knowledge that his property is occupied or used in violation of the provisions of the War Prohibition Act and suffers the same to be so used, such property shall be subject to a lien for, and may be sold to pay, all fines and costs assessed against the occupant of such building

or property for any violation of the War Prohibition Act occurring after the passage hereof, which said lien shall attach from the time of the filing of notice of the commencement of the suit in the office where the records of the transfer of real estate are kept; and any such lien may be established and enforced by legal action instituted for that purpose in any court having jurisdiction. Any violation of this title upon any leased premises by the lessee or occupant thereof shall, at the option of the lessor, work a forfeiture of the lease. (Act Oct. 28, 1919, c. 85, Title I, § 3.)

§ 8350e. **Abatement of war-time liquor nuisances by suit in equity.**—The United States attorney for the district where such nuisance as is defined in this Act exists, or any officer designated by him or the Attorney General of the United States, may prosecute a suit in equity in the name of the United States to abate and enjoin the same. Actions in equity to enjoin and abate such nuisances may be brought in any court having jurisdiction to hear and determine equity causes. The jurisdiction of the courts of the United States under this section shall be concurrent with that of the courts of the several States.

If it be made to appear by affidavit, or other evidence under oath, to the satisfaction of the court, or judge in vacation, that the nuisance complained of exists, a temporary writ of injunction shall forthwith issue restraining the defendant or defendants from conducting or permitting the continuance of such nuisance until the conclusion of the trial. Where a temporary injunction is prayed for, the court may issue an order restraining the defendants and all other persons from removing or in any way interfering with the liquor or fixtures, or other things used in connection with the violation constituting the nuisance. No bond shall be required as a condition for making any order or issuing any writ of injunction under this Act. If the court shall find the property involved was being unlawfully used as aforesaid at or about the time alleged in the petition, the court shall order that no liquors shall be manufactured, sold, bartered, or stored in such room, house, building, boat, vehicle, structure, or places of any kind, for a period of not exceeding one year, or during the war and the period of demobilization. Whenever an action to enjoin a nuisance shall have been brought pursuant to the provisions of this Act, if the owner, lessee, tenant, or occupant appears and pays all costs of the proceedings and files a bond, with sureties to be approved by the clerk of the court in which the action is brought, in the liquidated sum of not less than \$500 nor more than \$1,000, conditioned that he will immediately abate said nuisance and prevent the same from being established or kept therein a period of one year thereafter, or during the war and period of demobilization, the court, or in vacation the judge, may, if satisfied of his good faith, direct by appropriate order that the property, if already closed or held under the order of abatement, be delivered to said owner, and said order of abatement canceled, so far as the same may relate to said property; or if said bond be given and costs therein paid before judgment on an order of abatement, the action shall be thereby abated as to said room, house, building, boat, vehicle, structure, or place only. The release of the property under the provisions of this section shall not release it from any judgment, lien, penalty, or liability to which it may be subject by law.

In the case of the violation of any injunction, temporary or permanent, granted pursuant to the provisions of this Title, the court, or in vacation a judge thereof, may summarily try and punish the defendant. The proceedings for punishment for contempt shall be commenced by filing with the clerk of the court from which such injunction issued information under oath setting out the alleged facts constituting the violation, whereupon the court or judge shall forthwith cause a warrant to issue under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may demand the production and oral examination of the witnesses. Any person found guilty of contempt under the provisions of this section shall be punished by a fine of not less than \$500 nor more than \$1,000, or by imprisonment of not less than thirty days nor more than twelve months, or by both fine and imprisonment. (Act Oct. 28, 1919, c. 85, Title I, § 4.)

§ 8350f. **Powers of officers in enforcement of war-time prohibition.**—The Commissioner of Internal Revenue, his assistants, agents, and inspectors,

and all other officers of the United States whose duty it is to enforce criminal laws, shall have all the power for the enforcement of the War Prohibition Act or any provisions thereof which is conferred by law for the enforcement of existing laws relating to the manufacture or sale of intoxicating liquors under the laws of the United States. (Act. Oct. 28, 1919, c. 85, Title I, § 5.)

§ 8350g. Partial invalidity of war-time prohibition enforcement Act.—If any section or provision of this Act shall be held to be invalid, it is hereby provided that all other provisions of this Act which are not expressly held to be invalid shall continue in full force and effect. (Act Oct. 28, 1919, c. 85, Title I, § 6.)

§ 8350h. Continued operation of war-time liquor laws.—None of the provisions of this Act shall be construed to repeal any of the provisions of the "War Prohibition Act," or to limit or annul any order or regulation prohibiting the manufacture, sale, or disposition of intoxicating liquors within certain prescribed zones or districts, nor shall the provisions of this Act be construed to prohibit the use of the power of the military or naval authorities to enforce the regulations of the President or Secretary of War or Navy issued in pursuance of law, prohibiting the manufacture, use, possession, sale, or other disposition of intoxicating liquors during the period of the war and demobilization thereafter. (Act Oct. 28, 1919, c. 85, Title I, § 7.)

§ 8351. General definitions in Federal prohibition enforcement Act.—When used in Title II and Title III of this Act (1) the word "liquor" or the phrase "intoxicating liquor" shall be construed to include alcohol, brandy, whisky, rum, gin, beer, ale, porter, and wine and in addition thereto any spirituous, vinous, malt, or fermented liquor, liquids, and compounds, whether medicated, proprietary, patented, or not, and by whatever name called, containing one-half of 1 per centum or more of alcohol by volume which are fit for use for beverage purposes: Provided, That the foregoing definitions shall not extend to dealcoholized wine nor to any beverage or liquid produced by the process by which beer, ale, porter or wine is produced, if it contains less than one-half of 1 per centum of alcohol by volume, and is made as prescribed in section 37 of this title, and is otherwise denominated than as beer, ale, or porter, and is contained and sold in, or from, such sealed and labeled bottles, casks, or containers as the commissioner may by regulation prescribe.

(2) The word "person" shall mean and include natural persons, associations, copartnerships, and corporations.

(3) The word "commissioner" shall mean Commissioner of Internal Revenue.

(4) The term "application" shall mean a formal written request supported by a verified statement of facts showing that the commissioner may grant the request.

(5) The term "permit" shall mean a formal written authorization by the commissioner setting forth specifically therein the things that are authorized.

(6) The term "bond" shall mean an obligation authorized or required by or under this Act or any regulation, executed in such form and for such a penal sum as may be required by a court, the commissioner or prescribed by regulation.

(7) The term "regulation" shall mean any regulation prescribed by the commissioner with the approval of the Secretary of the Treasury for carrying out the provisions of this Act, and the commissioner is authorized to make such regulations.

Any act authorized to be done by the commissioner may be performed by any assistant or agent designated by him for that purpose. Records required to be filed with the commissioner may be filed with an assistant commissioner or other person designated by the commissioner to receive such records. (Acts March 1, 1913, c. 90, 37 Stat. 699; Oct. 28, 1919, c. 85, Title II, § 1.)

Note.—Titles II and III are §§ 8351-8353k; § 37 of Title II is § 8352l.

§ 8351a. General duties and powers of officers; issuance of warrants.—The Commissioner of Internal Revenue, his assistants, agents, and inspectors

shall investigate and report violations of this Act to the United States attorney for the district in which committed, who is hereby charged with the duty of prosecuting the offenders, subject to the direction of the Attorney General, as in the case of other offenses against the laws of the United States; and such Commissioner of Internal Revenue, his assistants, agents, and inspectors may swear out warrants before United States commissioners or other officers or courts authorized to issue the same for the apprehension of such offenders, and may, subject to the control of the said United States attorney, conduct the prosecution at the committing trial for the purpose of having the offenders held for the action of a grand jury. Section 1014 of the Revised Statutes of the United States is hereby made applicable in the enforcement of this Act. Officers mentioned in said section 1014 are authorized to issue search warrants under the limitations provided in Title XI of the Act approved June 15, 1917 (Fortieth Statutes at Large, page 217, et seq.) (Act Oct. 28, 1919, c. 85, Title II, § 2.)

§ 8351b. Prohibition of manufacture, sale, possession and transportation of liquors; exceptions; construction of law; warehouse receipts.—No person shall on or after the date when the eighteenth amendment to the Constitution of the United States goes into effect, manufacture, sell, barter, transport, import, export, deliver, furnish or possess any intoxicating liquor except as authorized in this Act, and all the provisions of this Act shall be liberally construed to the end that the use of intoxicating liquor as a beverage may be prevented.

Liquor for nonbeverage purposes and wine for sacramental purposes may be manufactured, purchased, sold, bartered, transported, imported, exported, delivered, furnished and possessed, but only as herein provided, and the commissioner may, upon application, issue permits therefor: Provided, That nothing in this Act shall prohibit the purchase and sale of warehouse receipts covering distilled spirits on deposit in Government bonded warehouses, and no special tax liability shall attach to the business of purchasing and selling such warehouse receipts. (Act Oct. 28, 1919, c. 85, Title II, § 3.)

Note.—See §§ 8351c, 8352d, 8352h.

§ 8351c. Denatured alcohol or rum; liquor for nonbeverage purposes and manufactured preparations.—The articles enumerated in this section shall not, after having been manufactured and prepared for the market, be subject to the provisions of this Act if they correspond with the following descriptions and limitations, namely:

(a) Denatured alcohol or denatured rum produced and used as provided by laws and regulations now or hereafter in force.

(b) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary or the American Institute of Homeopathy that are unfit for use for beverage purposes.

(c) Patented, patent, and proprietary medicines that are unfit for use for beverage purposes.

(d) Toilet, medicinal, and antiseptic preparations and solutions that are unfit for use for beverage purposes.

(e) Flavoring extracts and sirups that are unfit for use as a beverage, or for intoxicating beverage purposes.

(f) Vinegar and preserved sweet cider.

A person who manufactures any of the articles mentioned in this section may purchase and possess liquor for that purpose, but he shall secure permits to manufacture such articles and to purchase such liquor, give the bonds, keep the records, and make the reports specified in this Act and as directed by the commissioner. No such manufacturer shall sell, use, or dispose of any liquor otherwise than as an ingredient of the articles authorized to be manufactured therefrom. No more alcohol shall be used in the manufacture of any extract, sirup, or the articles named in paragraphs b, c, and d of this section which may be used for beverage purposes than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of the article.

Any person who shall knowingly sell any of the articles mentioned in paragraphs a, b, c, and d of this section for beverage purposes, or any extract or sirup for intoxicating beverage purposes, or who shall sell

any of the same under circumstances from which the seller might reasonably deduce the intention of the purchaser to use them for such purposes, or shall sell any beverage containing one-half of 1 per centum or more of alcohol by volume in which any extract, sirup, or other article is used as an ingredient, shall be subject to the penalties provided in section 29 of this title. If the commissioner shall find, after notice and hearing as provided for in section 5 of this title, that any person has sold any flavoring extract, sirup, or beverage in violation of this paragraph, he shall notify such person, and any known principal for whom the sale was made, to desist from selling such article and it shall thereupon be unlawful for a period of one year thereafter for any person so notified to sell any such extract, sirup, or beverage without making an application for, giving a bond, and obtaining a permit so to do, which permit may be issued upon such conditions as the commissioner may deem necessary to prevent such illegal sales, and in addition the commissioner shall require a record and report of sales. (Act Oct. 28, 1919, c. 85, Title II, § 4.)

Note.—See §§ 8351b, 8352d, 8352h.

§ 8351d. Articles containing liquor contrary to preceding section.—Whenever the commissioner has reason to believe that any article mentioned in section 4 does not correspond with the descriptions and limitations therein provided, he shall cause an analysis of said article to be made, and if, upon such analysis, the commissioner shall find that said article does not so correspond, he shall give not less than fifteen days' notice in writing to the person who is the manufacturer thereof to show cause why said article should not be dealt with as an intoxicating liquor, such notice to be served personally or by registered mail, as the commissioner may determine, and shall specify the time when, the place where, and the name of the agent or official before whom such person is required to appear.

If the manufacturer of said article fails to show to the satisfaction of the commissioner that the article corresponds to the descriptions and limitations provided in section 4 of this title, his permit to manufacture and sell such article shall be revoked. The manufacturer may by appropriate proceeding in a court of equity have the action of the commissioner reviewed, and the court may affirm, modify, or reverse the finding of the commissioner as the facts and law of the case may warrant, and during the pendency of such proceedings may restrain the manufacture, sale, or other disposition of such article. (Act Oct. 28, 1919, c. 85, Title II, § 5.)

Note.—§ 4 is now § 8351c.

§ 8351e. Permit for manufacture, sale, purchase, transportation or prescription of liquor.—No one shall manufacture, sell, purchase, transport, or prescribe any liquor without first obtaining a permit from the commissioner so to do, except that a person may, without a permit, purchase and use liquor for medicinal purposes when prescribed by a physician as herein provided, and except that any person who in the opinion of the commissioner is conducting a bona fide hospital or sanitorium engaged in the treatment of persons suffering from alcoholism, may, under such rules, regulations, and conditions as the commissioner shall prescribe, purchase and use, in accordance with the methods in use in such institution, liquor, to be administered to the patients of such institution under the direction of a duly qualified physician employed by such institution.

All permits to manufacture, prescribe, sell, or transport liquor, may be issued for one year, and shall expire on the 31st day of December next succeeding the issuance thereof: Provided, That the commissioner may without formal application or new bond extend any permit granted under this Act or laws now in force after August 31 in any year to December 31 of the succeeding year: Provided further, That permits to purchase liquor for the purpose of manufacturing or selling as provided in this Act shall not be in force to exceed ninety days from the day of issuance. A permit to purchase liquor for any other purpose shall not be in force to exceed thirty days. Permits to purchase liquor shall specify the quantity and kind to be purchased and the purpose for which it is to be used. No permit shall be issued to any person who within one year prior to the application therefor or issuance thereof shall have violated the terms of any permit issued under this title or any law of the United States or of any State regulating traffic in liquor. No permit shall be issued to anyone to sell

liquor at retail, unless the sale is to be made through a pharmacist designated in the permit and duly licensed under the laws of his State to compound and dispense medicine prescribed by a duly licensed physician. No one shall be given a permit to prescribe liquor unless he is a physician duly licensed to practice medicine and actively engaged in the practice of such profession. Every permit shall be in writing, dated when issued, and signed by the commissioner or his authorized agent. It shall give the name and address of the person to whom it is issued and shall designate and limit the acts that are permitted and the time when and place where such acts may be performed. No permit shall be issued until a verified, written application shall have been made therefor, setting forth the qualification of the applicant and the purpose for which the liquor is to be used.

The commissioner may prescribe the form of all permits and applications and the facts to be set forth therein. Before any permit is granted the commissioner may require a bond in such form and amount as he may prescribe to insure compliance with the terms of the permit and the provisions of this title. In the event of the refusal by the commissioner of any application for a permit, the applicant may have a review of his decision before a court of equity in the manner provided in section 5 hereof.

Nothing in this title shall be held to apply to the manufacture, sale, transportation, importation, possession, or distribution of wine for sacramental purposes, or like religious rites, except section 6 (save as the same requires a permit to purchase) and section 10 hereof, and the provisions of this Act prescribing penalties for the violation of either of said sections. No person to whom a permit may be issued to manufacture, transport, import, or sell wines for sacramental purposes or like religious rites shall sell, barter, exchange, or furnish any such to any person not a rabbi, minister of the Gospel, priest or an officer duly authorized for the purpose by any church or congregation, nor to any such except upon an application duly subscribed by him, which application, authenticated as regulations may prescribe, shall be filed and preserved by the seller. The head of any conference or diocese or other ecclesiastical jurisdiction may designate any rabbi, minister, or priest to supervise the manufacture of wine to be used for the purposes and rites in this section mentioned, and the person so designated may, in the discretion of the commissioner, be granted a permit to supervise such manufacture. (Act Oct. 28, 1919, c. 85, Title II, § 6.)

Note.—§ 5 is now § 8351d; § 6 is now § 8351c; § 10 is now § 8351h.

§ 8351f. Prescriptions for liquor.—No one but a physician holding a permit to prescribe liquor shall issue any prescription for liquor. And no physician shall prescribe liquor unless after careful physical examination of the person for whose use such prescription is sought, or if such examination is found impracticable, then upon the best information obtainable, he in good faith believes that the use of such liquor as a medicine by such person is necessary and will afford relief to him from some known ailment. Not more than a pint of spirituous liquor to be taken internally shall be prescribed for use by the same person within any period of ten days and no prescription shall be filled more than once. Any pharmacist filling a prescription shall at the time indorse upon it over his own signature the word "cancelled," together with the date when the liquor was delivered, and then make the same a part of the record that he is required to keep as herein provided.

Every physician who issues a prescription for liquor shall keep a record, alphabetically arranged in a book prescribed by the commissioner, which shall show the date of issue, amount prescribed, to whom issued, the purpose or ailment for which it is to be used and directions for use, stating the amount and frequency of the dose. (Act Oct. 28, 1919, c. 85, Title II, § 7.)

§ 8351g. Blanks for such prescriptions.—The commissioner shall cause to be printed blanks for the prescriptions herein required, and he shall furnish the same, free of cost, to physicians holding permits to prescribe. The prescription blanks shall be printed in book form and shall be numbered consecutively from one to one hundred, and each book shall be given a number, and the stubs in each book shall carry the same numbers as and be copies of the prescriptions. The books containing such stubs shall be

returned to the commissioner when the prescription blanks have been used, or sooner, if directed by the commissioner. All unused, mutilated, or defaced blanks shall be returned with the book. No physician shall prescribe and no pharmacist shall fill any prescription for liquor except on blanks so provided, except in cases of emergency, in which event a record and report shall be made and kept as in other cases. (Act Oct. 28, 1919, c. 85, Title II, § 8.)

§ 8351h. Revocation of permits.—If at any time there shall be filed with the commissioner a complaint under oath setting forth facts showing, or if the commissioner has reason to believe, that any person who has a permit is not in good faith conforming to the provisions of this Act, or has violated the laws of any State relating to intoxicating liquor, the commissioner or his agent shall immediately issue an order citing such person to appear before him on a day named not more than thirty and not less than fifteen days from the date of service upon such permittee of a copy of the citation, which citation shall be accompanied by a copy of such complaint, or in the event that the proceedings be initiated by the commissioner with a statement of the facts constituting the violation charged, at which time a hearing shall be had unless continued for cause. Such hearing shall be held within the judicial district and within fifty miles of the place where the offense is alleged to have occurred, unless the parties agree on another place. If it be found that such person has been guilty of willfully violating any such laws, as charged, or has not in good faith conformed to the provisions of this Act, such permit shall be revoked, and no permit shall be granted to such person within one year thereafter. Should the permit be revoked by the commissioner, the permittee may have a review of his decision before a court of equity in the manner provided in section 5 hereof. During the pendency of such action such permit shall be temporarily revoked. (Act Oct. 28, 1919, c. 85, Title II, § 9.)

Note.—§ 5 is now § 8351d.

§ 8351i. Record of manufacture, purchase, sale, or transportation of liquor.—No person shall manufacture, purchase for sale, sell, or transport any liquor without making at the time a permanent record thereof showing in detail the amount and kind of liquor manufactured, purchased, sold, or transported, together with the names and addresses of the persons to whom sold, in case of sale, and the consignor and consignee in case of transportation, and the time and place of such manufacture, sale, or transportation. The commissioner may prescribe the form of such record, which shall at all times be open to inspection as in this Act provided. (Act Oct. 28, 1919, c. 85, Title II, § 10.)

§ 8351j. Preservation of permits by manufacturers and druggists; sales at wholesale.—All manufacturers and wholesale or retail druggists shall keep as a part of the records required of them a copy of all permits to purchase on which a sale of any liquor is made, and no manufacturer or wholesale druggist shall sell or otherwise dispose of any liquor except at wholesale and only to persons having permits to purchase in such quantities. (Act Oct. 28, 1919, c. 85, Title II, § 11.)

§ 8351k. Labels by manufacturers and wholesalers.—All persons manufacturing liquor for sale under the provisions of this title shall securely and permanently attach to every container thereof, as the same is manufactured, a label stating name of manufacturer, kind and quantity of liquor contained therein, and the date of its manufacture, together with the number of the permit authorizing the manufacture thereof and all persons possessing such liquor in wholesale quantities shall securely keep and maintain such label thereon; and all persons selling at wholesale shall attach to every package of liquor, when sold, a label setting forth the kind and quantity of liquor contained therein, by whom manufactured, the date of sale, and the person to whom sold; which label shall likewise be kept and maintained thereon until the liquor is used for the purpose for which such sale was authorized. (Act Oct. 28, 1919, c. 85, Title II, § 12.)

§ 8351l. Receipt and delivery of liquor by carrier.—It shall be the duty of every carrier to make a record at the place of shipment of the receipt of any liquor transported, and he shall deliver liquor only to persons who

present to the carrier a verified copy of a permit to purchase which shall be made a part of the carrier's permanent record at the office from which delivery is made.

The agent of the common carrier is hereby authorized to administer the oath to the consignee in verification of the copy of the permit presented, who, if not personally known to the agent, shall be identified before the delivery of the liquor to him. The name and address of the person identifying the consignee shall be included in the record. (Act Oct. 28, 1919, c. 85, Title II, § 13.)

§ 8351m. Secret shipment of liquor through carrier; shipping label.—It shall be unlawful for a person to use or induce any carrier, or any agent or employee thereof, to carry or ship any package or receptacle containing liquor without notifying the carrier of the true nature and character of the shipment. No carrier shall transport nor shall any person receive liquor from a carrier unless there appears on the outside of the package containing such liquor the following information: Name and address of the consignor or seller, name and address of the consignee, kind and quantity of liquor contained therein, and number of the permit to purchase or ship the same, together with the name and address of the person using the permit. (Act Oct. 28, 1919, c. 85, Title II, § 14.)

§ 8351n. Transportation by or receipt from carrier of liquor with known false label.—It shall be unlawful for any consignee to accept or receive any package containing any liquor upon which appears a statement known to him to be false, or for any carrier or other person to consign, ship, transport, or deliver any such package, knowing such statement to be false. (Act Oct. 28, 1919, c. 85, Title II, § 15.)

§ 8351o. Fraudulent order to carrier for delivery of liquor.—It shall be unlawful to give to any carrier or any officer, agent, or person acting or assuming to act for such carrier an order requiring the delivery to any person of any liquor or package containing liquor consigned to, or purporting or claimed to be consigned to a person, when the purpose of the order is to enable any person not an actual bona fide consignee to obtain such liquor. (Act Oct. 28, 1919, c. 85, Title II, § 15.)

§ 8351n. Advertisements and price lists of liquors or manufactured articles.—It shall be unlawful to advertise anywhere, or by any means or method, liquor, or the manufacture, sale, keeping for sale, or furnishing of the same, or where, how, from whom, or at what price the same may be obtained. No one shall permit any sign or billboard containing such advertisement to remain upon one's premises. But nothing herein shall prohibit manufacturers and wholesale druggists holding permits to sell liquor from furnishing price lists, with description of liquor for sale, to persons permitted to purchase liquor, or from advertising alcohol in business publications or trade journals circulating generally among manufacturers of lawful alcoholic perfumes, toilet preparations, flavoring extracts, medicinal preparations, and like articles: Provided, however, That nothing in this Act or in the Act making appropriations for the Post Office Department, approved March 3, 1917 (Thirty-ninth Statutes at Large, Part 1, page 1058, et seq.), shall apply to newspapers published in foreign countries when mailed to this country. (Act Oct. 28, 1919, c. 85, Title II, § 17.)

§ 8351q. Instrumentalities, preparations, or formulas for manufacture of liquor.—It shall be unlawful to advertise, manufacture, sell, or possess for sale any utensil, contrivance, machine, preparation, compound, tablet, substance, formula direction, or recipe advertised, designed, or intended for use in the unlawful manufacture of intoxicating liquor. (Act Oct. 28, 1919, c. 85, Title II, § 18.)

§ 8351r. Solicitation or reception of orders or giving information for securing liquor.—No person shall solicit or receive, nor knowingly permit his employee to solicit or receive, from any person any order for liquor or give any information of how liquor may be obtained in violation of this Act. (Act Oct. 28, 1919, c. 85, Title II, § 19.)

§ 8351s. Action for damages for injury or death from liquor.—Any person who shall be injured in person, property, means of support, or otherwise by any intoxicated person, or by reason of the intoxication of any person, whether resulting in his death or not, shall have a right of action against any person who shall, by unlawfully selling to or unlawfully assisting in procuring liquor for such intoxicated person, have caused or contributed to such intoxication, and in any such action such person shall have a right to recover actual and exemplary damages. In case of the death of either party, the action or right of action given by this section shall survive to or against his or her executor or administrator, and the amount so recovered by either wife or child shall be his or her sole and separate property. Such action may be brought in any court of competent jurisdiction. In any case where parents shall be entitled to such damages, either the father or mother may sue alone therefor, but recovery by one of such parties shall be a bar to suit brought by the other. (Act Oct. 28, 1919, c. 85, Title II, § 20.)

§ 8351t. Liquor nuisances.—Any room, house, building, boat, vehicle structure, or place where intoxicating liquor is manufactured, sold, kept, or bartered in violation of this title, and all intoxicating liquor and property kept and used in maintaining the same, is hereby declared to be a common nuisance, and any person who maintains such a common nuisance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or be imprisoned for not more than one year, or both. If a person has knowledge or reason to believe that his room, house, building, boat, vehicle, structure, or place is occupied or used for the manufacture or sale of liquor contrary to the provision of this title, and suffers the same to be so occupied or used, such room, house, building, boat, vehicle, structure, or place shall be subject to a lien for and may be sold to pay all fines and costs assessed against the person guilty of such nuisance for such violation, and any such lien may be enforced by action in any court having jurisdiction. (Act Oct. 28, 1919, c. 85, Title II, § 21.)

§ 8351u. Abatement of such nuisances.—An action to enjoin any nuisance defined in this title may be brought in the name of the United States by the Attorney General of the United States or by any United States attorney or any prosecuting attorney of any State or any subdivision thereof or by the commissioner or his deputies or assistants. Such action shall be brought and tried as an action in equity and may be brought in any court having jurisdiction to hear and determine equity cases. If it is made to appear by affidavits or otherwise, to the satisfaction of the court, or judge in vacation, that such nuisance exists, a temporary writ of injunction shall forthwith issue restraining the defendant from conducting or permitting the continuance of such nuisance until the conclusion of the trial. If a temporary injunction is prayed for, the court may issue an order restraining the defendant and all other persons from removing or in any way interfering with the liquor or fixtures, or other things used in connection with the violation of this Act constituting such nuisance. No bond shall be required in instituting such proceedings. It shall not be necessary for the court to find the property involved was being unlawfully used as aforesaid at the time of the hearing, but on finding that the material allegations of the petition are true, the court shall order that no liquors shall be manufactured, sold, bartered, or stored in such room, house, building, boat, vehicle, structure, or place, or any part thereof. And upon judgment of the court ordering such nuisance to be abated, the court may order that the room, house, building, structure, boat, vehicle, or place shall not be occupied or used for one year thereafter; but the court may, in its discretion, permit it to be occupied or used if the owner, lessee, tenant, or occupant thereof shall give bond with sufficient surety, to be approved by the court making the order, in the penal and liquidated sum of not less than \$500 nor more than \$1,000, payable to the United States, and conditioned that intoxicating liquor will not thereafter be manufactured, sold, bartered, kept, or otherwise disposed of therein or thereon, and that he will pay all fines, costs, and damages that may be assessed for any violation of this title upon said property. (Act Oct. 28, 1919, c. 85, Title II, § 22.)

§ 8351v. Carriage or use of liquor or agency to secure orders.—Any person who shall with intent to effect a sale of liquor, by himself, his employee,

servant, or agent, for himself or any person, company or corporation, keep or carry around on his person, or in a vehicle, or other conveyance whatever, or leave in a place for another to secure, any liquor, or who shall travel to solicit or solicit or take, or accept orders for the sale, shipment, or delivery of liquor in violation of this title is guilty of a nuisance and may be restrained by injunction, temporary and permanent, from doing or continuing to do any of said acts or things.

In such proceedings it shall not be necessary to show any intention on the part of the accused to continue such violations if the action is brought within sixty days following any such violation of the law.

For removing and selling property in enforcing this Act the officer shall be entitled to charge and receive the same fee as the sheriff of the county would receive for levying upon and selling property under execution, and for closing the premises and keeping them closed a reasonable sum shall be allowed by the court.

Any violation of this, title upon any leased premises by the lessee or occupant thereof shall, at the option of the lessor, work a forfeiture of the lease. (Act Oct. 28, 1919, c. 85, Title II, § 23.)

§ 8351w. Violation of injunction.—In the case of the violation of any injunction, temporary or permanent, granted pursuant to the provisions of this title, the court, or in vacation a judge thereof, may summarily try and punish the defendant. The proceedings for punishment for contempt shall be commenced by filing with the clerk of the court from which such injunction issued information under oath setting out the alleged facts constituting the violation, whereupon the court or judge shall forthwith cause a warrant to issue under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may demand the production and oral examination of the witnesses. Any person found guilty of contempt under the provisions of this section shall be punished by fine of not less than \$500, nor more than \$1,000, or by imprisonment of not less than thirty days nor more than twelve months, or by both fine and imprisonment. (Act Oct. 28, 1919, c. 85, Title II, § 24.)

§ 8352. Unlawful possession of liquor or instrumentalities; search warrants.—It shall be unlawful to have or possess any liquor or property designed for the manufacture of liquor intended for use in violating this title or which has been so used, and no property rights shall exist in any such liquor or property. A search warrant may issue as provided in Title XI of public law numbered 24 of the Sixty-fifth Congress, approved June 15, 1917, and such liquor, the containers thereof, and such property so seized shall be subject to such disposition as the court may make thereof. If it is found that such liquor or property was so unlawfully held or possessed, or had been so unlawfully used, the liquor, and all property designed for the unlawful manufacture of liquor, shall be destroyed, unless the court shall otherwise order. No search warrant shall issue to search any private dwelling occupied as such unless it is being used for the unlawful sale of intoxicating liquor, or unless it is in part used for some business purpose such as a store, shop, saloon, restaurant, hotel, or boarding house. The term "private dwelling" shall be construed to include the room or rooms used and occupied not transiently but solely as a residence in an apartment house, hotel, or boarding house. The property seized on any such warrant shall not be taken from the officer seizing the same on any writ of replevin or other like process. (Act Oct. 28, 1919, c. 85, Title II, § 25.)

Note.—This section formerly contained part of Act March 3, 1917, c. 162, § 5, 39 Stat. 1069, relating to the transportation of liquor by mail or in interstate commerce. See remainder of that Act in § 9915, the whole of which is doubtless superseded by this chapter. See also §§ 8351w, 9914.

§ 8352a. Transportation or possession of liquor by vehicles or by water or air craft; arrests; sale of property seized.—When the commissioner, his assistants, inspectors, or any officer of the law shall discover any person in the act of transporting in violation of the law, intoxicating liquors in any wagon, buggy, automobile, water or air craft, or other vehicle, it shall be his duty to seize any and all intoxicating liquors found therein being transported contrary to law. Whenever intoxicating liquors transported or possessed illegally shall be seized by an officer he shall take possession of the vehicle and team or automobile, boat, air or water craft, or any

other conveyance, and shall arrest any person in charge thereof. Such officer shall at once proceed against the person arrested under the provisions of this title in any court having competent jurisdiction; but the said vehicle or conveyance shall be returned to the owner upon execution by him of a good and valid bond, with sufficient sureties, in a sum double the value of the property, which said bond shall be approved by said officer and shall be conditioned to return said property to the custody of said officer on the day of trial to abide the judgment of the court. The court upon conviction of the person so arrested shall order the liquor destroyed, and unless good cause to the contrary is shown by the owner, shall order a sale by public auction of the property seized, and the officer making the sale, after deducting the expenses of keeping the property, the fee for the seizure, and the cost of the sale, shall pay all liens, according to their priorities, which are established, by intervention or otherwise at said hearing or in other proceeding brought for said purpose, as being bona fide and as having been created without the lienor having any notice that the carrying vehicle was being used or was to be used for illegal transportation of liquor, and shall pay the balance of the proceeds into the Treasury of the United States as miscellaneous receipts. All liens against property sold under the provisions of this section shall be transferred from the property to the proceeds of the sale of the property. If, however, no one shall be found claiming the team, vehicle, water or air craft, or automobile, the taking of the same, with a description thereof, shall be advertised in some newspaper published in the city or county where taken or if there be no newspaper published in such city or county, in a newspaper having circulation in the county, once a week for two weeks and by handbills posted in three public places near the place of seizure, and if no claimant shall appear within ten days after the last publication of the advertisement, the property shall be sold and the proceeds after deducting the expenses and costs shall be paid into the Treasury of the United States as miscellaneous receipts. (Act Oct. 28, 1919, c. 85, Title II, § 26.)

§ 8352b. Disposition of liquor seized under Act.—In all cases in which intoxicating liquors may be subject to be destroyed under the provisions of this Act the court shall have jurisdiction upon the application of the United States attorney, to order them delivered to any department or agency of the United States Government for medicinal, mechanical, or scientific uses, or to order the same sold at private sale for such purposes to any person having a permit to purchase liquor the proceeds to be covered into the Treasury of the United States to the credit of miscellaneous receipts, and all liquor heretofore seized in any suit or proceeding brought for violation of law may likewise be so disposed of, if not claimed within sixty days from the date this section takes effect. (Act Oct. 28, 1919, c. 85, Title II, § 27.)

Note.—See preceding section.

§ 8352c. Official powers conferred by existing laws.—The commissioner, his assistants, agents, and inspectors, and all other officers of the United States, whose duty it is to enforce criminal laws, shall have all the power and protection in the enforcement of this Act or any provisions thereof which is conferred by law for the enforcement of existing laws relating to the manufacture or sale of intoxicating liquors under the law of the United States. (Act Oct. 28, 1919, c. 85, Title II, § 28.)

§ 8352d. Penalties for offenses; manufacture of cider and fruit juices for home use.—Any person who manufactures or sells liquor in violation of this title shall for a first offense be fined not more than \$1,000, or imprisoned not exceeding six months, and for a second or subsequent offense shall be fined not less than \$200 nor more than \$2,000 and be imprisoned not less than one month nor more than five years.

Any person violating the provisions of any permit, or who makes any false record, report, or affidavit required by this title, or violates any of the provisions of this title, for which offense a special penalty is not prescribed, shall be fined for a first offense not more than \$500; for a second offense not less than \$100 nor more than \$1,000, or be imprisoned

not more than ninety days; for any subsequent offense he shall be fined not less than \$500 and be imprisoned not less than three months nor more than two years. It shall be the duty of the prosecuting officer to ascertain whether the defendant has been previously convicted and to plead the prior conviction in the affidavit, information, or indictment. The penalties provided in this Act against the manufacture of liquor without a permit shall not apply to a person for manufacturing nonintoxicating cider and fruit juices exclusively for use in his home, but such cider and fruit juices shall not be sold or delivered except to persons having permits to manufacture vinegar. (Act Oct. 28, 1919, c. 85, Title II, § 29.)

Note.—See §§ 8351b, 8351f, 8352h.

§ 8352e. **Incriminating evidence.**—No person shall be excused, on the ground that it may tend to incriminate him or subject him to a penalty or forfeiture, from attending and testifying, or producing books, papers, documents, and other evidence in obedience to a subpoena of any court in any suit or proceeding based upon or growing out of any alleged violation of this Act; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing as to which, in obedience to a subpoena and under oath, he may so testify or produce evidence, but no person shall be exempt from prosecution and punishment for perjury committed in so testifying. (Act Oct. 28, 1919, c. 85, Title II, § 30.)

§ 8352f. **Where sale through carrier deemed made.**—In case of a sale of liquor where the delivery thereof was made by a common or other carrier the sale and delivery shall be deemed to be made in the county or district wherein the delivery was made by such carrier to the consignee, his agent or employee, or in the county or district wherein the sale was made, or from which the shipment was made, and prosecution for such sale or delivery may be had in any such county or district. (Act Oct. 28, 1919, c. 85, Title II, § 31.)

§ 8352g. **Joinder of offenses; sufficiency of affidavits, information and indictments.**—In any affidavit, information, or indictment for the violation of this Act, separate offenses may be united in separate counts and the defendant may be tried on all at one trial and the penalty for all offenses may be imposed. It shall not be necessary in any affidavit, information, or indictment to give the name of the purchaser or to include any defensive negative averments, but it shall be sufficient to state that the act complained of was then and there prohibited and unlawful, but this provision shall not be construed to preclude the trial court from directing the furnishing the defendant a bill of particulars when it deems it proper to do so. (Act Oct. 28, 1919, c. 85, Title II, § 32.)

§ 8352h. **Possession as prima facie evidence of guilt; possession of liquors in private dwelling.**—After February 1, 1920, the possession of liquors by any person not legally permitted under this title to possess liquor shall be prima facie evidence that such liquor is kept for the purpose of being sold, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this title. Every person legally permitted under this title to have liquor shall report to the commissioner within ten days after the date when the eighteenth amendment of the Constitution of the United States goes into effect, the kind and amount of intoxicating liquors in his possession. But it shall not be unlawful to possess liquors in one's private dwelling while the same is occupied and used by him as his dwelling only and such liquor need not be reported, provided such liquors are for use only for the personal consumption of the owner thereof and his family residing in such dwelling and of his bona fide guests when entertained by him therein and the burden of proof shall be upon the possessor in any action concerning the same to prove that such liquor was lawfully acquired, possessed, and used. (Act Oct. 28, 1919, c. 85, Title II, § 33.)

Note.—See §§ 8351b, 8351f, 8352, 8352d.

§ 8352i. **Inspection of records and reports; copies as evidence.**—All records and reports kept or filed under the provisions of this Act shall be subject to inspection at any reasonable hour by the commissioner or any of his

agents or by any public prosecutor or by any person designated by him, or by any peace officer in the State where the record is kept, and copies of such records and reports duly certified by the person with whom kept or filed may be introduced in evidence with like effect as the originals thereof, and verified copies of such records shall be furnished to the commissioner when called for. (Act Oct. 28, 1919, c. 85, Title II, § 34.)

§ 8352j. Repeal of inconsistent laws; taxation; compromise of civil causes.—All provisions of law that are inconsistent with this Act are repealed only to the extent of such inconsistency and the regulations herein provided for the manufacture or traffic in intoxicating liquor shall be construed as in addition to existing laws. This Act shall not relieve anyone from paying any taxes or other charges imposed upon the manufacture or traffic in such liquor. No liquor revenue stamps or tax receipts for any illegal manufacture or sale shall be issued in advance, but upon evidence of such illegal manufacture or sale a tax shall be assessed against, and collected from, the person responsible for such illegal manufacture or sale in double the amount now provided by law, with an additional penalty of \$500 on retail dealers and \$1,000 on manufacturers. The payment of such tax or penalty shall give no right to engage in the manufacture or sale of such liquor, or relieve anyone from criminal liability, nor shall this Act relieve any person from any liability, civil or criminal, heretofore or hereafter incurred under existing laws.

The commissioner, with the approval of the Secretary of the Treasury, may compromise any civil cause arising under this title before bringing action in court; and with the approval of the Attorney General he may compromise any such cause after action thereon has been commenced. (Act Oct. 28, 1919, c. 85, Title II, § 35.)

§ 8352k. Partial invalidity of prohibition enforcement Act.—If any provision of this Act shall be held invalid it shall not be construed to invalidate other provisions of the Act. (Oct. 28, 1919, c. 85, Title II, § 36.)

§ 8352l. Storage of existing liquor in bonded warehouses or transportation thereto or to wholesale druggists; manufacture of liquid containing one-half of one per centum of alcohol or more; production of and tax on non-beverage alcohol and dealcoholized beverages; proof and cost of determination of alcoholic content of liquors.—Nothing herein shall prevent the storage in United States bonded warehouses of all liquor manufactured prior to the taking effect of this Act, or prevent the transportation of such liquor to such warehouses or to any wholesale druggist for sale to such druggist for purposes not prohibited when the tax is paid, and permits may be issued therefor.

A manufacturer of any beverage containing less than one-half of 1 per centum of alcohol by volume may, on making application and giving such bond as the commissioner shall prescribe, be given a permit to develop in the manufacture thereof by the usual methods of fermentation and fortification or otherwise a liquid such as beer, ale, porter, or wine, containing more than one-half of 1 per centum of alcohol by volume, but before any such liquid is withdrawn from the factory or otherwise disposed of the alcoholic contents thereof shall under such rules and regulations as the commissioner may prescribe be reduced below such one-half of 1 per centum of alcohol: Provided, That such liquid may be removed and transported, under bond and under such regulations as the commissioner may prescribe, from one bonded plant or warehouse to another for the purpose of having the alcohol extracted therefrom. And such liquids may be developed, under permit, by persons other than the manufacturers of beverages containing less than one-half of 1 per centum of alcohol by volume, and sold to such manufacturers for conversion into such beverages. The alcohol removed from such liquid, if evaporated and not condensed and saved, shall not be subject to tax; is saved, it shall be subject to the same law as other alcoholic liquors. Credit shall be allowed on the tax due on any alcohol so saved to the amount of any tax paid upon distilled spirits or brandy used in the fortification of the liquor from which the same is saved.

When fortified wines are made and used for the production of nonbeverage alcohol, and dealcoholized wines containing less than one-half of 1 per centum of alcohol by volume, no tax shall be assessed or paid on the

spirits used in such fortification, and such dealcoholized wines produced under the provisions of this Act, whether carbonated or not, shall not be subject to the tax on artificially carbonated or sparkling wines, but shall be subject to the tax on still wines only.

In any case where the manufacturer is charged with manufacturing or selling for beverage purposes any malt, vinous, or fermented liquids containing one-half of 1 per centum or more of alcohol by volume, or in any case where the manufacturer, having been permitted by the commissioner to develop a liquid such as ale, beer, porter, or wine containing more than one-half of 1 per centum of alcohol by volume in the manner and for the purpose herein provided, is charged with failure to reduce the alcoholic content of any such liquid below such one-half of 1 per centum before withdrawing the same from the factory, then in either such case the burden of proof shall be on such manufacturer to show that such liquid so manufactured, sold, or withdrawn contains less than one-half of 1 per centum of alcohol by volume. In any suit or proceeding involving the alcoholic content of any beverage, the reasonable expense of analysis of such beverage shall be taxed as costs in the case. (Act Oct. 28, 1919, c. 85, Title II, § 37.)

§ 8352m. Employees, equipment, and moneys for enforcement of prohibition laws.—The Commissioner of Internal Revenue and the Attorney General of the United States are hereby respectively authorized to appoint and employ such assistants, experts, clerks, and other employees in the District of Columbia or elsewhere, and to purchase such supplies and equipment as they may deem necessary for the enforcement of the provisions of this Act, but such assistants, experts, clerks, and other employees, except such executive officers as may be appointed by the Commissioner or the Attorney General to have immediate direction of the enforcement of the provisions of this Act, and persons authorized to issue permits, and agents and inspectors in the field service, shall be appointed under the rules and regulations prescribed by the Civil Service Act: Provided, That the Commissioner and Attorney General in making such appointments shall give preference to those who have served in the military or naval service in the recent war, if otherwise qualified, and there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sum as may be required for the enforcement of this Act including personal services in the District of Columbia, and for the fiscal year ending June 30, 1920, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$2,000,000 for the use of the Commissioner of Internal Revenue and \$100,000 for the use of the Department of Justice for the enforcement of the provisions of this Act, including personal services in the District of Columbia and necessary printing and binding. (Act Oct. 28, 1919, c. 85, Title II, § 38.)

§ 8352n. Summons for owner where property proceeded against.—In all cases wherein the property of any citizen is proceeded against or wherein a judgment affecting it might be rendered, and the citizen is not the one who in person violated the provisions of the law, summons must be issued in due form and served personally, if said person is to be found within the jurisdiction of the court. (Act Oct. 28, 1919, c. 85, Title II, § 39.)

§ 8352o. Definition of "alcohol" and "container" in sections following.—When used in this title the term "alcohol" means that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, from whatever source or whatever processes produced. The term "container" includes any receptacle, vessel, or form of package, tank, or conduit used or capable of use for holding, storing, transferring, or shipment of alcohol. (Act Oct. 28, 1919, c. 85, Title III, § 1.)

§ 8352p. Registration, bond, and permit for industrial alcohol plant.—Any person now producing alcohol shall, within thirty days after the passage of this Act, make application to the commissioner for registration of his industrial alcohol plant, and as soon thereafter as practicable the premises shall be bonded and permit may issue for the operation of such plant, and any person hereafter establishing a plant for the production of alcohol shall likewise before operation make application, file bond, and receive permit. (Act Oct. 28, 1919, c. 85, Title III, § 2.)

§ 8352q. Bond and permit for warehouses; storage and distribution of alcohol; containers.—Warehouses for the storage and distribution of alcohol to be used exclusively for other than beverage purposes may be established upon filing of application and bond, and issuance of permit at such places, either in connection with the manufacturing plant or elsewhere, as the commissioner may determine; and the entry and storage of alcohol therein, and the withdrawal of alcohol therefrom shall be made in such containers and by such means as the commissioner by regulation may prescribe. (Act Oct. 28, 1919, c. 85, Title III, § 3.)

§ 8352r. Transfer of alcohol from one plant or warehouse to another.—Alcohol produced at any registered industrial alcohol plant or stored in any bonded warehouse may be transferred under regulations to any other registered industrial alcohol plant or bonded warehouse for any lawful purpose. (Act Oct. 28, 1919, c. 85, Title III, § 4.)

§ 8352s. Lien of and liability for tax on alcohol.—Any tax imposed by law upon alcohol shall attach to such alcohol as soon as it is in existence as such, and all proprietors of industrial alcohol plants and bonded warehouses shall be jointly and severally liable for any and all taxes on any and all alcohol produced thereat or stored therein. Such taxes shall be a first lien on such alcohol and the premises and plant in which such alcohol is produced or stored, together with all improvements and appurtenances thereunto belonging or in any wise appertaining. (Act Oct. 28, 1919, c. 85, Title III, § 5.)

§ 8352t. Disposition of distilled spirits remaining in existing bonded warehouses.—Any distilled spirits produced and fit for beverage purposes remaining in any bonded warehouse on or before the date when the eighteenth amendment of the Constitution of the United States goes into effect, may, under regulations, be withdrawn therefrom either for denaturation at any bonded denaturing plant or for deposit in a bonded warehouse established under this Act; and when so withdrawn, if not suitable as to proof, purity, or quality for other than beverage purposes, such distilled spirits shall be redistilled, purified, and changed in proof so as to render such spirits suitable for other purposes, and having been so treated may thereafter be denatured or sold in accordance with the provisions of this Act. (Act Oct. 28, 1919, c. 85, Title III, § 6.)

§ 8352u. Operation of existing distillery or warehouse as industrial alcohol plant.—Any distillery or bonded warehouse heretofore legally established may, upon filing application and bond and the granting of permit, be operated as an industrial alcohol plant or bonded warehouse under the provisions of this title and regulations made thereunder. (Act Oct. 28, 1919, c. 85, Title III, § 7.)

§ 8352v. Lawful production of alcohol and its use or sale at plant or warehouse.—Alcohol may be produced at any industrial alcohol plant established under the provisions of this title, from any raw materials or by any processes suitable for the production of alcohol, and, under regulations, may be used at any industrial alcohol plant or bonded warehouse or sold or disposed of for any lawful purpose, as in this Act provided. (Act Oct. 28, 1919, c. 85, Title III, § 8.)

§ 8352w. What laws inapplicable to industrial alcohol plants or bonded warehouses.—Industrial alcohol plants and bonded warehouses established under the provisions of this title shall be exempt from the provisions of sections 3154, 3244, 3258, 3259, 3260, 3263, 3264, 3266, 3267, 3268, 3269, 3271, 3273, 3274, 3275, 3279, 3280, 3283, 3284, 3285, 3286, 3287, 3288, 3289, 3290, 3291, 3292, 3293, 3294, 3295, 3302, 3303, 3307, 3308, 3309, 3310, 3311, 3312, 3313, 3314, and 3327 of the Revised Statutes, sections 48 to 60, inclusive, and sections 62 and 67 of the Act of August 27, 1894 (Twenty-eighth Statutes, pages 563 to 568), and from such other provisions of existing laws relating to distilleries and bonded warehouses as may, by regulations, be declared inapplicable to industrial alcohol plants and bonded warehouses established under this Act. Regulations may be made embodying any provisions of the sections above enumerated. (Act Oct. 28, 1919, c. 85, Title III, § 9.)

Note.—The laws referred to relate to internal revenue on liquors. See tables of statutes.

§ 8353. Denaturing plants; sale of denatured alcohol; distilled vinegars.—Upon the filing of application and bond and issuance of permit denaturing plants may be established upon the premises of any industrial alcohol plant, or elsewhere, and shall be used exclusively for the denaturation of alcohol by the admixture of such denaturing materials as shall render the alcohol, or any compound in which it is authorized to be used, unfit for use as an intoxicating beverage.

Alcohol lawfully denatured may, under regulations, be sold free of tax either for domestic use or for export.

Nothing in this Act shall be construed to require manufacturers of distilled vinegar to raise the proof of any alcohol used in such manufacture or to denature the same. (Act Oct. 3, 1917, c. 63, § 301, 40 Stat. 308; Oct. 28, 1919, c. 85, Title III, § 10.)

Note.—This section formerly contained Act Oct. 3, 1917, c. 63, § 301, 40 Stat. 308, forbidding importation of distilled spirits. That section is doubtless superseded by this chapter.

§ 8353a. Withdrawal of alcohol for denaturation or for lawful purposes; permit for its purchase; what spirits deemed alcohol for purpose of denaturation.—Alcohol produced at any industrial alcohol plant or stored in any bonded warehouse may, under regulations, be withdrawn tax free as provided by existing law from such plant or warehouse for transfer to any denaturing plant for denaturation, or may, under regulations, before or after denaturation, be removed from any such plant or warehouse for any lawful tax-free purpose.

Spirits of less proof than one hundred and sixty degrees may, under regulations, be deemed to be alcohol for the purpose of denaturation, under the provisions of this title.

Alcohol may be withdrawn, under regulations, from any industrial plant or bonded warehouse tax free by the United States or any governmental agency thereof, or by the several States and Territories or any municipal subdivision thereof or by the District of Columbia, or for the use of any scientific university or college of learning, any laboratory for use exclusively in scientific research, or for use in any hospital or sanatorium.

But any person permitted to obtain alcohol tax free, except the United States and the several States and Territories and subdivisions thereof, and the District of Columbia, shall first apply for and secure a permit to purchase the same and give the bonds prescribed under title II of this Act, but alcohol withdrawn for nonbeverage purposes for use of the United States and the several States, Territories and subdivisions thereof, and the District of Columbia may be purchased and withdrawn subject only to such regulations as may be prescribed. (Act Oct. 28, 1919, c. 85, Title III, § 11.)

§ 8353b. Cumulative character of penalties under this title.—The penalties provided in this title shall be in addition to any penalties provided in Title II of this Act, unless expressly otherwise therein provided. (Act Oct. 28, 1919, c. 85, Title III, § 12.)

Note.—See § 8353e.

§ 8353c. Regulations concerning alcohol and plants and warehouses.—The commissioner shall from time to time issue regulations respecting the establishment, bonding, and operation of industrial alcohol plants, denaturing plants, and bonded warehouses authorized herein, and the distribution, sale, export, and use of alcohol which may be necessary, advisable, or proper, to secure the revenue, to prevent diversion of the alcohol to illegal uses, and to place the nonbeverage alcohol industry and other industries using such alcohol as a chemical raw material or for other lawful purposes upon the highest possible plane of scientific and commercial efficiency consistent with the interests of the Government, and which shall insure an ample supply of such alcohol and promote its use in scientific research and the development of fuels, dyes, and other lawful products. (Act Oct. 28, 1919, c. 85, Title III, § 13.)

§ 8353d. Tax allowance for waste or loss of alcohol.—Whenever any alcohol is lost by evaporation or other shrinkage, leakage, casualty, or unavoidable cause during distillation, redistillation, denaturation, withdrawal piping, shipment, warehousing, storage, packing, transfer, or recovery, of any such alcohol the commissioner may remit or refund any tax incurred

under existing law upon such alcohol, provided he is satisfied that the alcohol has not been diverted to any illegal use: Provided, also, That such allowance shall not be granted if the person claiming same is indemnified against such loss by a valid claim of insurance. (Act Oct. 28, 1919, c. 85, Title III, § 14.)

§ 8353e. Offenses under this title.—Whoever operates an industrial alcohol plant or a denaturing plant without complying with the provisions of this title and lawful regulations made thereunder, or whoever withdraws or attempts to withdraw or secure tax free any alcohol subject to tax, or whoever otherwise violates any of the provisions of this title or of regulations lawfully made thereunder shall be liable, for the first offense, to a penalty of not exceeding \$1,000, or imprisonment not exceeding thirty days, or both, and for a second or cognate offense to a penalty of not less than \$100 nor more than \$10,000, and to imprisonment of not less than thirty days nor more than one year. It shall be lawful for the commissioner in all cases of second or cognate offense to refuse to issue for a period of one year a permit for the manufacture or use of alcohol upon the premises of any person responsible in any degree for the violation. (Act Oct. 28, 1919, c. 85, Title III, § 15.)

Note.—See § 8353b.

§ 8353f. Mode of collecting taxes on alcohol.—Any tax payable upon alcohol under existing law may be collected either by assessment or by stamp as regulations shall provide; and if by stamp, regulations shall issue prescribing the kind of stamp to be used and the manner of affixing and canceling the same. (Act Oct. 28, 1919, c. 85, Title III, § 16.)

§ 8353g. Release of seized property to claimant.—When any property is seized for violation of this title it may be released to the claimant or to any intervening party, in the discretion of the commissioner, on a bond given and approved. (Act Oct. 28, 1919, c. 85, Title III, § 17.)

§ 8353h. Administrative provisions of revenue laws applicable.—All administrative provisions of internal-revenue law, including those relating to assessment, collection, abatement, and refund of taxes and penalties, and the seizure and forfeiture of property, are made applicable to this title in so far as they are not inconsistent with the provisions thereof. (Act Oct. 28, 1919, c. 85, Title III, § 18.)

§ 8353i. Repeal of inconsistent laws relating to alcohol.—All prior statutes relating to alcohol as defined in this title are hereby repealed in so far as they are inconsistent with the provisions of this title. (Act Oct. 28, 1919, c. 85, Title III, § 19.)

§ 8353j. Liquors in Canal Zone.—It shall be unlawful to import or introduce into the Canal Zone, or to manufacture, sell, give away, dispose of, transport, or have in one's possession or under one's control within the Canal Zone, any alcoholic, fermented, brewed, distilled, vinous, malt, or spirituous liquors, except for sacramental, scientific, pharmaceutical, industrial, or medicinal purposes, under regulations to be made by the President, and any such liquors within the Canal Zone in violation hereof shall be forfeited to the United States and seized: Provided, That this section shall not apply to liquor in transit through the Panama Canal or on the Panama Railroad.

Each and every violation of any of the provisions of this section shall be punished by a fine of not more than \$1,000 or imprisonment not exceeding six months for a first offense, and by a fine not less than \$200 nor more than \$2,000 and imprisonment not less than one month nor more than five years for a second or subsequent offense.

All offenses heretofore committed within the Canal Zone may be prosecuted and all penalties therefor enforced in the same manner and to the same extent as if this Act had not been passed. (Act Oct. 28, 1919, c. 85, Title III, § 20.)

§ 8353k. When prohibition enforcement Act effective.—Titles I and III and sections 1, 27, 37, and 38 of Title II of this Act shall take effect and be in force from and after the passage and approval of the Act. The other sections of Title II shall take effect and be in force from and after the date when the eighteenth amendment of the Constitution of the United States goes into effect. (Act Oct. 28, 1919, c. 85, Title III, § 21.)

Note.—Title I is §§ 8350b-8350h; Title III is §§ 8352o-8352k; §§ 1, 27, 37, 38 are §§ 8351, 8352b, 8352k, 8352m.

TITLE LXXII.

EDUCATION OTHER THAN MILITARY OR NAUTICAL.

CHAPTER 2.

VOCATIONAL EDUCATION.

§ 8439a. Transfer to and use by board of war equipment.—The Secretary of War shall have authority to transfer to the Federal Board for Vocational Education, without compensation therefor, certain surplus machine tools and other equipment belonging to the War Department and now in possession of the Federal board and being used by that board as equipment in schools for vocational education controlled by the board. Property so transferred shall be dropped from the records of the War Department on the filing with the War Department of an itemized receipt for the articles thus transferred. An itemized statement of the articles transferred hereunder and the cost price thereof shall be reported to Congress by the Secretary of War. (Act March 6, 1920, c. 94.)

§ 8439b. Sale of war equipment to educational institutions.—The Secretary of War be, and he is hereby, authorized, under such regulations as he may prescribe, to sell at 15 per centum of their cost to trade, technical, and public schools and universities, and other recognized educational institutions, upon application in writing, such machine tools as are suitable for their use which are now owned by the United States of America and are under the control of the War Department and are not needed for Government purposes. The money realized from the sale may be used by the Secretary of War to defray expenses, except cost of transportation, incident to distribution of the tools, and the balance shall be turned into the Treasury of the United States as miscellaneous receipts: Provided, That in the event any such material is offered for sale by said institutions without the consent in writing of the Secretary of War, title thereto shall revert to the United States. (Act Nov. 19, 1919, c. 118, § 1.)

§ 8439c. Detail of army officers and enlisted men as instructors.—Whenever possible officers, warrant officers, noncommissioned officers, or other enlisted men shall be detailed as instructors in vocational training in the most important trades in lieu of civilian instructors. (Act June 5, 1920, c. 240.)

§ 8439d. Sale of farm products and increase in livestock.—Farm products and the increase in live stock (including fowls) which accrue as incidental to vocational training in agriculture and animal husbandry, may be sold under such regulations as the Secretary of War may prescribe and the proceeds of such sales shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts. (Act June 5, 1920, c. 240.)

§ 8439e. Appropriation for vocational rehabilitation of persons disabled in industry.—In order to provide for the promotion of vocational rehabilitation of persons disabled in industry or in any legitimate occupation and their return to civil employment there is hereby appropriated for the use of the States, subject to the provisions of this Act, for the purpose of cooperating with them in the maintenance of vocational rehabilitation of such disabled persons, and in returning vocationally rehabilitated persons to civil employment for the fiscal year ending June 30, 1921, the sum of \$750,000; for the fiscal year ending June 30, 1922, and thereafter for a period of two

years, the sum of \$1,000,000 annually. Said sums shall be allotted to the States in the proportion which their population bears to the total population in the United States, not including Territories, outlying possessions, and the District of Columbia, according to the last preceding United States census: Provided, That the allotment of funds to any State shall not be less than a minimum of \$5,000 for any fiscal year. And there is hereby appropriated the following sums, or so much thereof as may be needed, which shall be used for the purpose of providing the minimum allotment to the States provided for in this section for the fiscal year ending June 30, 1921, the sum of \$46,000; for the fiscal year ending June 30, 1922, and annually thereafter, the sum of \$34,000.

All moneys expended under the provisions of this Act from appropriations provided by section 1 shall be upon the condition (1) that for each dollar of Federal money expended there shall be expended in the State under the supervision and control of the State board at least an equal amount for the same purpose: Provided, That no portion of the appropriation made by this Act shall be used by any institution for handicapped persons except for the special training of such individuals entitled to the benefits of this Act as shall be determined by the Federal board; (2) that the State board shall annually submit to the Federal board for approval plans showing (a) the kinds of vocational rehabilitation and schemes of placement for which it is proposed the appropriation shall be used; (b) the plan of administration and supervision; (c) courses of study; (d) methods of instruction; (e) qualification of teachers, supervisors, directors, and other necessary administrative officers or employees; (f) plans for the training of teachers, supervisors, and directors; (3) that the State board shall make an annual report to the Federal board on or before September 1 of each year on the work done in the State and on the receipts and expenditures of money under the provisions of this Act; (4) that no portion of any moneys appropriated by this Act for the benefit of the States shall be applied, directly or indirectly, to the purchase, preservation, erection, or repair of any building or buildings or equipment, or for the purchase or rental of any lands; (5) that all courses for vocational rehabilitation given under the supervision and control of the State board and all courses for vocational rehabilitation maintained shall be available, under such rules and regulations as the Federal board shall prescribe, to any civil employee of the United States disabled while in the performance of his duty. (Act June 2, 1920, c. 219, § 1.)

Note.—§ 1, so referred to, is this section.

§ 8439f. Disability and rehabilitation defined.—For the purpose of this Act the term "persons disabled" shall be construed to mean any person who, by reason of a physical defect or infirmity, whether congenital or acquired by accident, injury or disease, is, or may be expected to be, totally or partially incapacitated for remunerative occupation; the term "rehabilitation" shall be construed to mean the rendering of a person disabled fit to engage in a remunerative occupation. (Act June 2, 1920, c. 219, § 2.)

§ 8439g. Cooperation by States.—In order to secure the benefits of the appropriations provided by section 1 any State shall, through the legislative authority thereof, (1) accept the provisions of this Act; (2) empower and direct the board designated or created as the State board for vocational education to cooperate in the administration of the provisions of the Vocational Education Act, approved February 23, 1917, to cooperate as herein provided with the Federal Board for Vocational Education in the administration of the provisions of this Act; (3) in those States where a State workmen's compensation board, or other State board, department, or agency exists, charged with the administration of the State workmen's compensation or liability laws, the legislature shall provide that a plan of cooperation be formulated between such State board, department, or agency, and the State board charged with the administration of this Act, such plan to be effective when approved by the governor of the State; (4) provide for the supervision and support of the courses of vocational rehabilitation to be provided by the State board in carrying out the provisions of this Act; (5) appoint as custodian for said appropriations its State treasurer, who shall receive and provide for the proper custody and disbursement of all money paid to the State from said appropriations. In any State the legislature of which does not meet in regular session between the date of

the passage of this Act and December 31, 1920, if the governor of that State shall accept the provisions of this Act, such State shall be entitled to the benefits of this Act until the legislature of such State meets in due course and has been in session sixty days. (Act June 2, 1920, c. 219, § 3.)

Note.—§ 1 is now § 8439c.

§ 8439h. Cooperative functions of Federal board.—The Federal Board for Vocational Education shall have power to cooperate with State boards in carrying out the purposes and provisions of this Act, and is hereby authorized to make and establish such rules and regulations as may be necessary or appropriate to carry into effect the provisions of this Act; to provide for the vocational rehabilitation of disabled persons and their return to civil employment and to cooperate, for the purpose of carrying out the provisions of this Act, with such public and private agencies as it may deem advisable. It shall be the duty of said board (1) to examine plans submitted by the State boards and approve the same if believed to be feasible and found to be in conformity with the provisions and purposes of this Act; (2) to ascertain annually whether the several States are using or are prepared to use the money received by them in accordance with the provisions of this Act; (3) to certify on or before the 1st day of January of each year to the Secretary of the Treasury each State which has accepted the provisions of this Act and complied therewith, together with the amount which each State is entitled to receive under the provisions of this Act; (4) to deduct from the next succeeding allotment to any State whenever any portion of the fund annually allotted has not been expended for the purpose provided for in this Act a sum equal to such unexpended portion; (5) to withhold the allotment of moneys to any State whenever it shall be determined that moneys allotted are not being expended for the purposes and conditions of this Act; (6) to require the replacement by withholding subsequent allotments of any portion of the moneys received by the custodian of any State under this Act that by any action or contingency is diminished or lost: Provided, That if any allotment is withheld from any State, the State board of such State may appeal to the Congress of the United States, and if the Congress shall not, within one year from the time of said appeal, direct such sum to be paid, it shall be covered into the Treasury. (Act June 2, 1920, c. 219, § 4.)

§ 8439l. How moneys paid; annual report by Federal board.—The Secretary of the Treasury, upon the certification of the Federal board as provided in this Act, shall pay quarterly to the custodian of each State appointed as herein provided the moneys to which it is entitled under the provisions of this Act. The money so received by the custodian for any State shall be paid out on the requisition of the State board as reimbursement for services already rendered or expenditures already incurred and approved by said State board. The Federal Board for Vocational Education shall make an annual report to the Congress on or before December 1 on the administration of this Act and shall include in such report the reports made by the State boards on the administration of this Act by each state and the expenditure of the money allotted to each State. (Act June 2, 1920, c. 219, § 5.)

§ 8439j. Fund and employees of Federal board for enforcement of Act.—There is hereby appropriated to the Federal Board for Vocational Education the sum of \$75,000 annually for a period of four years for the purpose of making studies, investigations, and reports regarding the vocational rehabilitation of disabled persons and their placements in suitable or gainful occupations, and for the administrative expenses of said board incident to performing the duties imposed by this Act, including salaries of such assistants, experts, clerks, and other employees, in the District of Columbia or elsewhere as the board may deem necessary, actual traveling and other necessary expenses incurred by the members of the board and by its employees, under its orders, including attendance at meetings of educational associations and other organizations, rent and equipment of offices in the District of Columbia and elsewhere, purchase of books of reference, law books, and periodicals, stationery, typewriters and exchange thereof, miscellaneous supplies, postage on foreign mail, printing and binding to be done at the Government Printing Office, and all other necessary expenses.

A full report of all expenses under this section, including names of all employees and salaries paid them, traveling expenses and other expenses incurred by each and every employee and by members of the board, shall be submitted annually to Congress by the board.

No salaries shall be paid out of the fund provided in this section in excess of the following amounts: At the rate of \$5,000 per annum, to not more than one person; at the rate of \$4,000 per annum each, to not more than four persons; at the rate of \$3,500 per annum each, to not more than five persons; and no other employee shall receive compensation at a rate in excess of \$2,500 per annum: Provided, That no person receiving compensation at less than \$3,500 per annum shall receive in excess of the amount of compensation paid in the regular departments of the Government for like or similar services. (Act June 2, 1920, c. 219, § 6.)

§ 8439k. Gifts and donations to Federal board; special fund; discriminations for membership in organizations.—The Federal Board for Vocational Education is hereby authorized and empowered to receive such gifts and donations from either public or private sources as may be offered unconditionally. All moneys received as gifts or donations shall be paid into the Treasury of the United States, and shall constitute a permanent fund, to be called the "Special fund for vocational rehabilitation of disabled persons," to be used under the direction of the said board to defray the expenses of providing and maintaining courses of vocational rehabilitation in special cases, including the payment of necessary expenses of persons undergoing training. A full report of all gifts and donations offered and accepted, together with the names of the donors and the respective amounts contributed by each, and all disbursements therefrom shall be submitted annually to Congress by said board: Provided, That no discrimination shall be made or permitted for or against any person or persons who are entitled to the benefits of this Act because of membership or nonmembership in any industrial, fraternal, or private organization of any kind under a penalty of \$200 for every violation thereof. (Act June 2, 1920, c. 219, § 7.)

TITLE LXXIII.

PENSIONS.

§§ 8524-8605. These sections are affected and superseded to a great extent by §§ 8605a-8605h, following.

§ 8605a. Civil or Mexican War service pensions.—Every person who served ninety days or more in the Army, Navy, or Marine Corps of the United States during the Civil War, and who has been honorably discharged therefrom, or who, having so served less than ninety days, was discharged for a disability incurred in the service and in the line of duty, or is now upon the pension rolls as a Civil War veteran, and every person who served sixty days or more in the War with Mexico, or on the coast or frontier thereof, or en route thereto, during the war with that nation, and was honorably discharged therefrom, and who is now in receipt of, or entitled to receive under existing law, a pension of less than \$50 per month, shall, from and after the passage of this Act, be entitled to and shall be paid a pension at the rate of \$50 per month. (Act May 1, 1920, c. 165, § 1.)

§ 8605b. Civil or Mexican War general disability pensions.—Every person who served ninety days or more in the Army, Navy, or Marine Corps of the United States during the Civil War, and who has been honorably discharged therefrom, or who, having so served less than ninety days, was discharged for a disability incurred in the service and in the line of duty, or is now upon the pension rolls as a Civil War veteran and every person who served sixty days or more in the War with Mexico, or on the coasts or frontier thereof, or en route thereto, during the war with that nation, and was honorably discharged therefrom, and who is now, or hereafter may become by reason of age and physical or mental disabilities, helpless or blind, or so nearly helpless or blind as to require the regular personal

aid and attendance of another person, shall be entitled to and shall be paid a pension at the rate of \$72 per month. (Act May 1, 1920, c. 165, § 2.)

§ 8605c. Pension for specific disabilities.—From and after the approval of this Act all persons whose names are on the pension roll, and who, while in the service of the United States in the Army, Navy, or Marine Corps during the Civil War, and in the line of duty, shall have lost one hand or one foot or been totally disabled in the same, shall receive a pension at the rate of \$60 per month; that all persons who, in such service and in like manner, shall have lost an arm at or above the elbow, or a leg at or above the knee, or been totally disabled in the same, shall receive a pension at the rate of \$65 per month; that all persons who, in such service and in like manner, shall have lost an arm at the shoulder joint or a leg at the hip joint, or so near the shoulder or hip joint, or where the same is in such condition as to prevent the use of an artificial limb, shall receive a pension at the rate of \$72 per month; and that all persons who, in such service and in like manner, shall have lost one hand and one foot, or been totally disabled in the same, shall receive a pension at the rate of \$90 per month, and that all persons who, in such service and in like manner, shall have lost both eyes, or been totally disabled in the same or who, in such service and in like manner, sustained injuries that proved the direct cause of the subsequent total loss of the sight of both eyes, shall receive a pension at the rate of \$100 per month. (Acts May 1, 1920, c. 165, § 3; June 5, 1920, c. 245, § 3.)

§ 8605d. Civil or Mexican War pensions for widows and children; War of 1812.—The widow of any person who served in the Army, Navy, or Marine Corps of the United States during the Civil War for ninety days or more, and was honorably discharged from such service, or regardless of the length of service was discharged for or died in service of a disability incurred in the service and in the line of duty, such widow having been married to such soldier, sailor, or marine prior to the 27th day of June, anno Domini, 1905, shall be entitled to and shall be paid a pension at the rate of \$30 per month. And this section shall apply to a former widow of any person who served for ninety days or more in the Army, Navy, or Marine Corps of the United States during the Civil War and was honorably discharged from such service, or who, having so served for less than ninety days was discharged for or died in service of a disability incurred in the service and in the line of duty, such widow having remarried, either once or more than once after the death of the soldier, sailor, or marine, if it be shown that such subsequent or successive marriage has, or have been dissolved, either by the death of the husband or husbands, or by divorce without fault on the part of the wife; and any such former widow shall be entitled to and be paid a pension at the rate of \$30 per month; and any widow as mentioned in this section, shall also be paid \$6 per month for each child of such officer or enlisted man under the age of sixteen years, and in case of the death or remarriage of the widow leaving a child or children of such officer or enlisted man under the age of sixteen years. such pension shall be paid such child or children until the age of sixteen years: Provided, That in case a minor child is insane, idiotic, or otherwise mentally or physically helpless, the pension shall continue during the life of such child, or during the period of such disability, and this proviso shall apply to all pensions heretofore granted or hereafter to be granted under this or any former statute: And provided further, That in case of any widow whose name has been dropped from the pension roll because of her remarriage, if the pension has been granted to an insane, idiotic, or otherwise helpless child, or to a child or children under the age of sixteen years, she shall not be entitled to renewal of pension under this Act until that pension to such child or children terminates, unless such child or children be a member or members of her family and cared for by her, and upon the renewal of pension to such widow, payment of pension to such child or children shall cease: And provided further, That the rate of pension for the widow of any person who served in the Army, Navy, or Marine Corps of the United States in the War of 1812, or for sixty days or more in the War with Mexico, on the coasts or frontier thereof, or en route thereto during the war with that nation, and was honorably discharged therefrom, shall be \$30 per month. (Act May 1, 1920, c. 165, § 4.)

§ 8605e. Civil War pensions for nurses and dependent parents.—All Army nurses of the Civil War and all dependent parents of any officer or enlisted man who served in the Civil War whose names are now on the pension roll, or who are now entitled to pension under any existing law, shall be entitled to and shall be paid a pension at the rate of \$30 per month. (Act May 1, 1920, c. 165, § 5.)

§ 8605f. When foregoing pensions commence.—The pension or increase of pension herein provided for, as to all persons whose names are now on the pension roll, or who are now in receipt of a pension under existing law, shall commence at the rates herein provided, from the date of the approval of this Act, or under section 2 hereof, when the requisite condition is shown to exist after the approval of this Act; and as to persons whose names are not now on the pension roll, or who are not now in receipt of a pension under existing law, but who may be entitled to pension under the provisions of this Act, such pensions shall commence from the date of filing application therefor in the Bureau of Pensions in such form as may be prescribed by the Secretary of the Interior: Provided, That as to any former widow, as mentioned in section 4 hereof, who since the death of her soldier, sailor, or marine husband has remarried either once or more than once, and such subsequent or successive marriage has been dissolved, either by the death of the husband or husbands, or by divorce without fault on the part of the wife, and who filed her application for pension under the Act of September 8, 1916, her pension shall commence from the date when her original application was filed under that Act in the Bureau of Pensions, and shall be at the rate in that Act provided, with increase at the rate or rates subsequently provided for the widows of Civil War soldiers, sailors, and marines, and by this Act from the date or dates when any such subsequent Act or Acts took effect or may hereafter take effect, it being the intent and purpose to give to any such widow the same status as other widows of Civil War soldiers, sailors, and marines who have not remarried, and from the date of said Act of September 8, 1916. (Act May 1, 1920, c. 165, § 6.)

Note.—§ 2 is now § 8605b; § 4 is now § 8605d.

§ 8605g. Effect of this Act on existing pensions.—Nothing in this Act contained shall be held to affect or diminish the additional pension to those on the roll designated as "The Army and Navy Medal of Honor Roll," as provided in the Act of April 27, 1916, but any increase herein provided for shall be in addition thereto and no pension heretofore granted under any Act, public or private, shall be reduced by anything contained in this Act. (Act May 1, 1920, c. 165, § 7.)

§ 8605h. Claim agents or attorneys under foregoing Act.—No claim agent or attorney or other person shall be recognized in the adjustment of claims under this Act; except in claims for original pension, and in such cases no more than the sum of \$10 shall be allowed for services in preparing, presenting, or prosecuting any such claim, which sum shall be payable only on the order of the Commissioner of Pensions; and any person who shall violate any of the provisions of this section, or shall wrongfully withhold from the pensioner or claimant the whole or any part of a pension allowed or due to such pensioner or claimant under this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, for each and every offense, be fined not exceeding \$500 or be imprisoned not exceeding one year, or both, in the discretion of the court. (Act May 1, 1920, c. 165, § 8.)

§ 8605i. Pensions for service in Spanish War, Philippine insurrection or Chinese expedition.—That all persons who served ninety days or more in the military or naval service of the United States during the War with Spain, the Philippine insurrection, and the China relief expedition, and who have been honorably discharged therefrom, and who are now or who may hereafter be suffering from any mental or physical disability or disabilities of a permanent character, not the result of their own vicious habits, which so incapacitates them from the performance of manual labor as to render them unable to earn a support, shall, upon making due proof of the fact, according to such rules and regulations as the Secretary of the Interior may provide, be placed upon the list of invalid pensioners of the United States, and be entitled to receive a pension not exceeding \$30 per month

and not less than \$12 per month, proportioned to the degree of inability to earn a support; and in determining such inability each and every infirmity shall be duly considered, and the aggregate of the disabilities shown be rated, and such pension shall commence from the date of the filing of the application in the Bureau of Pensions, after the passage of this Act, upon proof that the disability or disabilities then existed and shall continue during the existence of the same: Provided, That any such person who has reached the age of 62 years shall, upon making proof of such fact, be placed upon the pension roll and entitled to receive a pension of \$12 per month. In case such person has reached the age of 68 years, \$18 per month; in case such person has reached the age of 72 years, \$24 per month; and in case such person has reached the age of 75 years, \$30 per month: Provided further, That persons who are now receiving pensions under existing laws, or whose claims are pending in the Bureau of Pensions, may, by application to the Commissioner of Pensions, in such form as he may prescribe, showing themselves entitled thereto, receive the benefits of this Act; and nothing herein contained shall be so construed as to prevent any pensioner thereunder from prosecuting his claim and receiving his pension under any other general or special Act: Provided, however, That no person shall receive more than one pension for the same period: And provided further, That rank in the service shall not be considered in applications filed under this Act. (Act June 5, 1920, c. 245, § 1.)

§ 8605j. **Claim agent or attorney acting under preceding section.**—No agent, attorney, or other person engaged in preparing, presenting, or prosecuting any claim under the provisions of this Act, shall, directly or indirectly, contract for, demand, receive, or retain for such services in preparing, presenting, or prosecuting such claim a sum greater than \$20, which sum shall be payable only upon the order of the Commissioner of Pensions under such rules and regulations as he may deem proper to make, and any person who shall violate any of the provisions of this section, or who shall wrongfully withhold from a pensioner or claimant the whole or any part of a pension or claim allowed or due such pensioner or claimant under this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, for each and every such offense, be fined not exceeding \$500, or be imprisoned at hard labor not exceeding two years, or both, in the discretion of the court. (Act June 5, 1920, c. 245, § 2.)

§ 8633. See § 8605e.

TITLE LXXIV.

THE PUBLIC HEALTH.

CHAPTER 1.

PUBLIC HEALTH SERVICE.

§ 8694a. **Credit of officers for war service.**—Officers of the Public Health Service shall be credited with service in the Army, Navy, Marine Corps, and the Coast Guard in computing longevity pay. (Act March 6, 1920, c. 94.)

§ 8699a. **Purchase of supplies by officers.**—Hereafter officers of the Public Health Service may purchase quartermaster supplies from the Army, Navy, and Marine Corps at the same price as is charged officers of the Army, Navy, and Marine Corps. (Act March 6, 1920, c. 94.)

§ 8699b. **Advertisements in newspapers.**—Appropriations herein or hereafter made for the Public Health Service shall not be expended for advertising in newspapers, magazines, or periodicals for any purpose other than the procurement of bids for necessary services, supplies, materials, and equipment. (Act March 6, 1920, c. 94.)

§ 8706a. Disposal of articles produced by patients.—The Secretary of the Treasury is authorized to make regulations governing the disposal of articles produced by patients in the course of their curative treatment, either by allowing the patient to retain same or by selling the articles and depositing the money received to the credit of the appropriation from which the materials for making the articles were purchased. (Act March 6, 1920, c. 94.)

CHAPTER 2.

QUARANTINE.

§ 8747. Admission to marine hospital of cases for study.—There may be admitted into said hospitals for study persons with infectious or other diseases affecting the public health, and not to exceed ten cases in any one hospital at one time. (Acts June 12, 1917, c. 27, § 1, 40 Stat. 120; March 28, 1918, c. 28, § 1, 40 Stat.; July 1, 1918, c. 113, § 1, 40 Stat.; July 19, 1919, c. 24, § 1.)

TITLE LXXV.

HOSPITALS, ASYLUMS, AND CEMETERIES.

CHAPTER 1.

HOSPITAL RELIEF FOR SEAMEN AND SOLDIERS.

§ 8757a. Subsistence of Army patients in Panama hospitals.—That the subsistence of the said patients, except commissioned officers, shall be paid to said hospitals out of the appropriation for subsistence of the Army at the rates provided therein for commutation of rations for enlisted patients in general hospitals. (Act July 11, 1919, c. 8, § 1.)

§ 8765a. Special hospital and sanatorium facilities for seamen, soldiers, nurses and certain employees; authorization; persons to be benefited.—The Secretary of the Treasury be, and he is hereby, authorized to provide immediate additional hospital and sanatorium facilities for the care and treatment of discharged sick and disabled soldiers, sailors, and marines, Army and Navy nurses (male and female), patients of the War Risk Insurance Bureau, and the following persons only: Merchant marine seamen, seamen on boats of the Mississippi River Commission, officers and enlisted men of the United States Coast Guard, officers and employees of the Public Health Service, certain keepers and assistant keepers of the United States Lighthouse Service, seamen of the Engineer Corps of the United States Army, officers and enlisted men of the United States Coast and Geodetic Survey, civilian employees entitled to treatment under the United States Employees' Compensation Act, and employees on Army transports not officers or enlisted men of the Army, now entitled by law to treatment by the Public Health Service. (Act March 3, 1919, c. 98, § 1.)

§ 8765b. Same; transfer of existing hospitals and lands.—There are hereby permanently transferred to the Treasury Department for the use of the Public Health Service for hospital or sanatoria or other uses the following properties, with their present equipment, including sites and leases, or so much thereof as may be required by the Public Health Service, including mechanical equipment in connection therewith, and approaches thereto, with authority to lease or purchase sites not owned by the Government, as follows: Hospitals, with such other buildings and land as may be required, at Camp Cody (New Mexico), Camp Hancock (Georgia), Camp Joseph E. Johnston (Florida), Camp Beauregard (Louisiana), Camp Logan (Texas), Camp Fremont (California), and nitrate plant, Perryville (Maryland), and such hospitals with other necessary buildings hereafter vacated by the War Department, as may be required and found suitable for the needs of the Public Health Service for hospital or sanatoria purposes. And for the purpose of such remodeling of or additions to the above-named plants as

may be required to adapt them to the needs and uses of the Public Health Service, the sum of \$750,000 is hereby authorized. (Act March 3, 1919, c. 98, § 2.)

§ 8765c. Same; transfer of hospital supplies and equipment and suitable property under control of Government departments.—The Secretary of War is hereby authorized and directed to transfer without charge to the Secretary of the Treasury for the use of the Public Health Service such hospital furniture and equipment, including hospital and medical supplies, motor trucks, and other motor-driven vehicles, in good condition, not required by the War Department, as may be required by the Public Health Service for its hospitals, and the President is authorized to direct the transfer to the Treasury Department of the use of such lands or parts of lands, buildings, fixtures, appliances, furnishings, or furniture under the control of any other department of the Government not required for the purposes of such department and suitable for the uses of the Public Health Service. (Act March 3, 1919, c. 98, § 3.)

§ 8765d. Use of Battle Mountain Sanatorium.—So much of the Battle Mountain Sanatorium at Hot Springs, South Dakota, the National Home for Disabled Volunteer Soldiers, with its present equipment, as is not required for the purposes for which these facilities were provided, is hereby made available for the use of the Public Health Service for a period of five years from the approval of this Act, unless sooner released by the Surgeon General of the Public Health Service. (Act March 3, 1919, c. 98, § 4.)

§ 8765e. Lease of hospital facilities.—The Secretary of the Treasury is hereby authorized to contract with any existing hospital or sanatorium, by lease or otherwise, for immediate use, in whole or in part, for their present facilities, so as to provide bed capacity and facilities for not exceeding one thousand patients, and for such purposes the sum of \$300,000 is hereby authorized. (Act March 3, 1919, c. 98, § 5.)

§ 8765f. Purchase of lands and buildings for hospitals and sanatoria.—The Secretary of the Treasury is hereby authorized, if in his judgment the same will be for the best interests of the Government from the standpoint of cost, location, and of the emergency needs of the Public Health Service, to purchase the site, buildings, and hospital facilities and appurtenances, at Corpus Christi, Texas, known as General Hospital Numbered 15, and for such purpose the sum of \$150,000 is hereby authorized.

The sum of \$1,500,000 is hereby authorized to be held as an emergency fund for the purchase of land and the erection thereon of buildings or for the purchase of land and buildings, and the remodeling thereof, suitable for hospital and sanatoria purposes, which the Secretary of the Treasury is hereby authorized to select and locate, for the uses of the United States Public Health Service, if in his judgment the emergency requires it. (Act March 3, 1919, c. 98, § 6; July 11, 1919, c. 6, § 1.)

§ 8765g. Construction of new hospitals and sanatoria.—By the construction of new hospitals and sanatoria, to include the necessary buildings with their appropriate mechanical and other equipment and approach work, including roads leading thereto, for the accommodation of patients, officers, nurses, attendants, storage, laundries, vehicles, and live stock on sites now owned by the Government, or on new sites to be acquired by purchase or otherwise, at the places hereinafter named: Provided, That if the Secretary of the Treasury shall make a finding that any hospital project hereinafter specifically authorized is not to the best interest of the Government from the standpoint of cost, location, and of the emergency needs of the Public Health Service, he is hereby authorized to reject such project or projects and to locate, construct, or acquire hospitals at such other locations as would best subserve the interest of the Government and the emergency needs of the Public Health Service within the limits of cost of such authorization.

(a) At Cook County, Illinois, by taking over the land and executing the contract for the construction thereon of hospital buildings specified therein of a certain proposed contract executed by the Shank Company, August thirty-first, nineteen hundred and eighteen, and in accordance with such contract and the plans and specifications, identified in connection therewith

August thirty-first, nineteen hundred and eighteen, by the signature and initials of Brigadier General R. C. Marshall, junior, Construction Division, Quartermaster Department, United States Army, by Lieutenant Colonel C. C. Wright, and the Shank Company, by George H. Shank, president, at the cost stated therein, namely, \$2,500,000, with such changes in said plans and specifications as may be required by the Secretary of the Treasury to adapt said specified buildings to the needs and purposes of the Public Health Service, at a total limit of cost not to exceed \$3,000,000.

(b) In carrying the foregoing authorization into effect, the Secretary of the Treasury is authorized to execute the contract with The Shank Company hereinbefore specified, with such verbal changes as are made necessary by a change in the contracting officers, and to assume all obligations in said contract contained, and to purchase materials and labor in the open market, or otherwise, and to employ laborers and mechanics for the construction of such buildings and their equipment as in his judgment shall best meet the public exigencies, within the limits of cost herein authorized.

(c) At Dawson Springs, Kentucky, on land to be acquired by gift, the necessary buildings for a sanatorium having a capacity of not less than five hundred beds. The sum of \$1,500,000 is hereby authorized for the construction of such sanatorium.

(d) The sum of \$900,000 is hereby authorized for the construction, including site, of a hospital plant complete at Norfolk, Virginia.

(e) The sum of \$550,000 is hereby authorized for the construction, on land owned by the Government, on a site to be selected by the Secretary of the Treasury with the approval of the President, of a hospital plant complete in the District of Columbia or vicinity.

(f) The sum of \$190,000 is hereby authorized for additional hospital accommodations, including such minor alterations in and remodeling of existing and authorized buildings as may be necessary to economically adapt them to the additional accommodations herein authorized for the Marine Hospital at Stapleton, Staten Island, New York, the sum appropriated for additions to the said hospital by the Act approved March twenty-eighth, nineteen hundred and eighteen, is authorized to be expended in full without the construction of psychiatric units. (Act March 3, 1919, c. 98, § 7.)

§ 8765h. Contracts for construction and equipment of such hospitals and sanatoria.—In carrying the foregoing authorization into effect, all new construction work herein authorized shall, as far as feasible, be of fire-resisting character, and the Secretary of the Treasury is authorized to enter into contracts for the construction, equipment, and so forth, of such buildings on Government owned lands, or lands acquired for such purpose, to purchase materials and labor in the open market, or otherwise, and to employ laborers and mechanics for the construction of such buildings and their equipment as in his judgment shall best meet the public exigencies, within the limits of cost herein authorized. (Act March 3, 1919, c. 98, § 8.)

§ 8765i. General appropriation.—For the purpose of carrying the foregoing authorization into effect, there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be immediately available and remain available until expended, the sum of \$8,840,000, and for furniture and equipment not otherwise provided for, the sum of \$210,000; in all, \$9,050,000. (Act March 3, 1919, c. 98, § 9.)

§ 8765j. Technical and clerical services required under Act: supervision of work by Surgeon General of Public Health Service.—And the Secretary of the Treasury is hereby authorized, in his discretion, to employ, for service within or without the District of Columbia, without regard to civil-service laws, rules, and regulations, and to pay from the sums hereby authorized and appropriated for construction purposes, at customary rates of compensation, such additional technical and clerical services as may be necessary, exclusively to aid in the preparation of the drawings and specifications for the above-named objects and supervision of the execution thereof, for traveling expenses, and printing incident thereto, at a total limit of cost for such additional technical and clerical services and traveling

expenses, and so forth, of not exceeding \$210,000 of the above-named limit of cost. All of the above-mentioned work shall be under the direction and supervision of the Surgeon General of the Public Health Service, subject to the approval of the Secretary of the Treasury. (Act March 3, 1919, c. 98, § 10.)

§ 8765k. Current appropriation for execution of Act.—There is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, for necessary personnel, including regular and reserve commissioned officers of the Public Health Service and clerical help in the District of Columbia and elsewhere, and maintenance, hospital supplies and equipment, leases, fuel, lights, and water, and freight, transportation, and travel, and reasonable burial expenses (not exceeding \$100 for any patient dying in hospital), \$785,333 for the fiscal year ending June thirtieth, nineteen hundred and nineteen. (Act March 3, 1919, c. 98, § 11.)

CHAPTER 3.

NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS.

§ 8826. State homes.—All States or Territories which have established, or which shall hereafter establish, State homes for disabled soldiers and sailors of the United States who served in the Civil War or in any previous or subsequent war who are disabled by age, disease, or otherwise, and by reason of such disability are incapable of earning a living, provided such disability was not incurred in service against the United States, shall be paid for every such disabled soldier or sailor who may be admitted and cared for in such home at the rate of \$120 per annum.

The number of such persons for whose care any State or Territory shall receive the said payments under this Act shall be ascertained by the Board of Managers of the National Home for Disabled Volunteer Soldiers under such regulations as it may prescribe, but the said State or Territorial homes shall be exclusively under the control of the respective State or Territorial authorities, and the board of managers shall not have nor assume any management or control of said State or Territorial homes.

The board of managers of the national home shall, however, have power to have the said State or Territorial homes inspected at such times as it may consider necessary, and shall report the result of such inspections to Congress in its annual report: Provided, That no State shall be paid a sum exceeding one-half the cost of maintenance of each soldier or sailor by such State: Provided further, That one-half of any sum or sums retained by State homes on account of pensions received from inmates shall be deducted from the aid herein provided for. That no money shall be apportioned to any State or Territorial home that maintains a bar or canteen where intoxicating liquors are sold: Provided further, That for any sum or sums collected in any manner from inmates of such State or Territorial homes to be used for the support of said homes a like amount shall be deducted from the aid herein provided for, but this proviso shall not apply to any State or Territorial home into which the wives or widows of soldiers are admitted and maintained. (Acts Aug. 27, 1888, c. 914, § 1, 25 Stat. 450; Jan. 27, 1920, c. 56.)

CHAPTER 4.

THE GOVERNMENT HOSPITAL FOR THE INSANE.

§ 8830a. Accounts of disbursing officers.—Hereafter the accounting officers of the Treasury are authorized to credit the accounts of the special disbursing agent of Saint Elizabeth's Hospital with such amounts as he has or may hereafter pay in carrying out the provision of the Sundry Civil Act of July 19, 1919, relating to the readjustment of salaries at the hospital, and the schedule of salaries and allowances for maintenance, where the latter is not provided by the hospital, approved by the Secretary of the Interior August 1 and November 25, 1919, respectively, or as may be modified hereafter by him, notwithstanding the Act of April 6, 1914, or section 4839, Revised Statutes, United States, as amended. (Act March 6, 1920, c. 94.)

§ 8877a. **Disposal of articles produced by patients.**—The Secretary of the Interior is authorized to make regulations governing the disposal of articles produced by patients of Saint Elizabeth's Hospital in the course of their curative treatment, either by allowing the patient to retain same or by selling the articles and depositing the money received to the credit of the appropriation from which the materials for making the articles were purchased. (Act March 6, 1920, c. 94.)

CHAPTER 6.

NATIONAL CEMETERIES.

§ 8913. **Who may be buried in national cemeteries.**—All soldiers, sailors, or marines dying in the service of the United States, or dying in a destitute condition after having been honorably discharged from the service, or who served, or hereafter shall have served, during any war in which the United States has been, or may hereafter be, engaged, and, with the consent of the Secretary of War, any citizen of the United States who served in the Army or Navy of any government at war with Germany or Austria during the World War and who died while in such service or after honorable discharge therefrom, may be buried in any national cemetery free of cost. The production of the honorable discharge of a deceased man in the former case, and a duly executed permit of the Secretary of War in the latter case, shall be sufficient authority for the superintendent of any cemetery to permit the interment. Army nurses honorably discharged from their service as such may be buried in any national cemetery, and, if in a destitute condition, free of cost. The Secretary of War is authorized to issue certificates to those Army nurses entitled to such burial. (R. S. § 4878; Acts July 17, 1862, c. 200, § 18, 12 Stat. 596; June 1, 1872, c. 257, 17 Stat. 202; March 3, 1873, c. 276, 17 Stat. 605; March 3, 1897, c. 378, 28 Stat. 625; April 15, 1920, c. 140.)

TITLE LXXVI.

PATENTS, TRADE-MARKS, AND COPYRIGHTS.

CHAPTER 1.

PATENTS.

§ 8987. **Payment of fees.**—Hereafter all patent fees shall be paid to the Commissioner of Patents, who shall deposit the same in the Treasury of the United States in such manner as the Secretary of the Treasury shall direct, and said commissioner is authorized to pay back any sum or sums of money paid to him by any person by mistake or in excess of the fee required by law. (R. S. § 4935; Acts July 8, 1870, c. 230, § 69, 16 Stat. 209; March 6, 1920, c. 94.)

CHAPTER 2.

TRADE-MARKS.

§ 8994. **What trade-marks may be registered.**—No mark by which the goods of the owner of the mark may be distinguished from other goods of the same class shall be refused registration as a trade-mark on account of the nature of such mark unless such mark—

(a) Consists of or comprises immoral or scandalous matter.

(b) Consists of or comprises the flag or coat of arms or other insignia of the United States or any simulation thereof, or of any State or municipality or of any foreign nation, or of any design or picture that has been or may hereafter be adopted by any fraternal society as its emblem, or of any name, distinguishing mark, character, emblem, colors, flag or banner adopted by any institution, organization, club, or society which was incorporated in any State in the United States prior to the date of the adoption

and use by the applicant: Provided, That said name, distinguishing mark, character, emblem, colors, flag, or banner was adopted and publicly used by said institution, organization, club, or society prior to the date of adoption and use by the applicant: Provided, That trade-marks which are identical with a registered or known trade-mark owned and in use by another and appropriated to merchandise of the same descriptive properties, or which so nearly resemble a registered or known trade-mark owned and in use by another and appropriated to merchandise of the same descriptive properties as to be likely to cause confusion or mistake in the mind of the public or to deceive purchasers shall not be registered: Provided, That no mark which consists merely in the name of an individual, firm, corporation, or association not written, printed, impressed, or woven in some particular or distinctive manner, or in association with a portrait of the individual, or merely in words or devices which are descriptive of the goods with which they are used, or of the character or quality of such goods, or merely a geographical name or term, shall be registered under the terms of this Act: Provided further, That no portrait of a living individual may be registered as a trade-mark except by the consent of such individual, evidenced by an instrument in writing. And provided further, That nothing herein shall prevent the registration of any mark used by the applicant or his predecessors, or by those from whom title to the mark is derived, in commerce with foreign nations or among the several States or with Indian tribes which was in actual and exclusive use as a trade-mark of the applicant, or his predecessors from whom he derived title, for ten years next preceding February twentieth, nineteen hundred and five: Provided further, That nothing herein shall prevent the registration of a trade-mark otherwise registrable because of its being the name of the applicant or a portion thereof. And if any person or corporation shall have so registered a mark upon the ground of said use for ten years preceding February 20, 1905, as to certain articles or classes of articles to which said mark shall have been applied for said period, and shall have thereafter and subsequently extended his business so as to include other articles not manufactured by said applicant for ten years next preceding February 20, 1905, nothing herein shall prevent the registration of said trade-mark in the additional classes to which said new additional articles manufactured by said person or corporation shall apply, after said trade-mark has been used on said article in interstate or foreign commerce or with the Indian tribes for at least one year provided another person or corporation has not adopted and used previously to its adoption and use by the proposed registrant, and for more than one year such trade-mark or one so similar as to be likely to deceive in such additional class or classes. (R. S. § 4939; Acts July 8, 1870, c. 230, § 79, 16 Stat. 211; Feb. 20, 1905, c. 592, § 5, 33 Stat. 725; March 2, 1907, c. 2573, § 1, 34 Stat. 1251; Feb. 18, 1911, c. 113, 36 Stat. 918; Jan. 8, 1913, c. 7, 37 Stat. 649; March 4, 1920, c. 104, § 9.)

§ 9020a. Registration of marks communicated by international bureau or which have been in actual use.—The Commissioner of Patents shall keep a register of (a) all marks communicated to him by the international bureaus provided for by the convention for the protection of trade-marks and commercial names, made and signed in the city of Buenos Aires, in the Argentine Republic, August 20, 1910, in connection with which the fee of \$50 gold for the international registration established by article 2 of that convention has been paid, which register shall show a facsimile of the mark; the name and residence of the registrant; the number, date, and place of the first registration of the mark, including the date on which application for such registration was filed and the term of such registration, a list of goods to which the mark is applied as shown by the registration in the country of origin, and such other data as may be useful concerning the mark.

(b) All other marks not registerable under the Act of February 20, 1905, as amended, except those specified in paragraphs (a) and (b) of section 5 of that Act, but which have been in bona fide use for not less than one year in interstate or foreign commerce, or commerce with the Indian tribes by the proprietor thereof, upon or in connection with any goods of such proprietor upon which a fee of \$10 has been paid to the Commissioner of Patents and such formalities as required by the said commissioner have

been complied with: Provided, That trade-marks which are identical with a known trade-mark owned and used in interstate and foreign commerce, or commerce with the Indian tribes by another and appropriated to merchandise of the same descriptive properties as to be likely to cause confusion or mistake in the mind of the public or to deceive purchasers, shall not be placed on this register. (Act March 19, 1920, c. 104, § 1.)

§ 9020b. Cancellation of registration.—Whenever any person shall deem himself injured by the inclusion of a trade-mark on this register, he may at any time apply to the Commissioner of Patents to cancel the registration thereof. The commissioner shall refer such application to the examiner in charge of interferences, who is empowered to hear and determine this question, and who shall give notice thereof to the registrant. If it appear after a hearing before the examiner that the registrant was not entitled to the exclusive use of the mark at or since the date of his application for registration thereof, or that the mark is not used by the registrants or has been abandoned, and the examiner shall so decide, the commissioner shall cancel the registration. Appeal may be taken to the commissioner in person from the decision of the examiner in charge of interferences. (Act March 19, 1920, c. 104, § 2.)

§ 9020c. Use of false statement of origin of articles of merchandise.—Any person who shall willfully and with intent to deceive, affix, apply, or annex, or use in connection with any article or articles of merchandise, or any container or containers of the same, a false designation of origin, including words or other symbols, tending to falsely identify the origin of the merchandise, and shall then cause such merchandise to enter into interstate or foreign commerce, and any person who shall knowingly cause or procure the same to be transported in interstate or foreign commerce or commerce with Indian tribes, or shall knowingly deliver the same to any carrier to be so transported, shall be liable to an action at law for damages and to an action in equity for an injunction, at the suit of any person, firm, or corporation doing business in the locality falsely indicated as that of origin or in the region in which said locality is situated, or at the suit of any association of such persons, firms, or corporations. (Act March 19, 1920, c. 104, § 3.)

§ 9020d. Reproduction or imitation of registered trade-mark.—Any person who shall without the consent of the owner thereof reproduce, counterfeit, copy, or colorably imitate any trade-mark on the register provided by this Act, and shall affix the same to merchandise of substantially the same descriptive properties as those set forth in the registration, or to labels, signs, prints, packages, wrappers or receptacles intended to be used upon or in connection with the sale of merchandise of substantially the same descriptive properties as those set forth in such registration, and shall use, or shall have used, such reproduction, counterfeit, copy, or colorable imitation in commerce among the several States, or with a foreign nation, or with the Indian tribes, shall be liable to an action for damages therefor at the suit of the owner thereof; and whenever in any such action a verdict is rendered for the plaintiff the court may enter judgment therein for any sum above the amount found by the verdict as the actual damages, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs. (Act March 19, 1920, c. 104, § 4.)

§ 9020e. Compliance with foreign registration laws.—It shall be the duty of a registrant under this Act of a mark falling within class (a) of section 1 to comply with the law of the country in which his original registration took place, in respect to giving notice to the public that the trade-mark is registered, in connection with the use of such trade-mark in the United States of America, and in any suit for infringement by a party failing to do this, no damages shall be recovered except on proof that the defendant was duly notified of the infringement and continued the same after such notice. (Act March 19, 1920, c. 104, § 5.)

Note.—§ 1 is now § 9020a.

§ 9020f. Laws applicable.—The provisions of sections 15, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, and 28 (as to class (b) marks only) of the Act

approved February 20, 1905, entitled "An Act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States, or with Indian tribes, and to protect the same," as amended to date, and the provisions of section 2 of the Act entitled "An Act to amend the laws of the United States relating to the registration of trade-marks," approved May 4, 1906, are hereby made applicable to marks placed on the register provided for by section 1 of this Act. (Act March 19, 1920, c. 104, § 6.)

Note.—See §§ 9004-9012, 9014-9017, 9020, for statutes so referred to.

§ 9020g. **Copies of papers as evidence.**—Written or printed copies of any records, books, papers, or drawings belonging to the Patent Office and relating to trademarks placed on the register provided for by this Act, when authenticated by the seal of the Patent Office and certified by the commissioner thereof, shall be evidence in all cases wherein the originals could be evidence, and any person making application therefor and paying the fee required by law shall have certified copies thereof. (Act March 19, 1920, c. 104, § 7.)

§ 9020h. **Fees for certified copies of papers, and on appeal.**—The same fees shall be required for certified and uncertified copies of papers and for records, transfers, and other papers, under this Act, as are required by law for such copies of patents and for recording assignments and other papers relating to patents.

On filing an appeal under this Act to the Commissioner of Patents from the decision of the examiner in charge of interferences, awarding ownership of a trade-mark, canceling or refusing to cancel the registration of a trade-mark, a fee of \$15 shall be payable. (Act March 19, 1920, c. 104, § 8.)

CHAPTER 3. COPYRIGHTS.

§ 9029. **Who entitled to copyright.**—The author or proprietor of any work made the subject of copyright by this Act, or his executors, administrators, or assigns, shall have copyright for such work under the conditions and for the terms specified in this Act: Provided, however, That the copyright secured by this Act shall extend to the work of an author or proprietor who is a citizen or subject of a foreign State or nation only:

(a) When an alien author or proprietor shall be domiciled within the United States at the time of the first publication of his work; or

(b) When the foreign State or nation of which such author or proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection substantially equal to the protection secured to such foreign author under this Act or by treaty; or when such foreign State or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto.

The existence of the reciprocal conditions aforesaid shall be determined by the President of the United States, by proclamation made from time to time, as the purposes of this Act may require: Provided, however, That all works made the subject of copyright by the laws of the United States first produced or published abroad after August 1, 1914, and before the date of the President's proclamation of peace, of which the authors or proprietors are citizens or subjects of any foreign State or nation granting similar protection for works by citizens of the United States, the existence of which shall be determined by a copyright proclamation issued by the President of the United States, shall be entitled to the protection conferred by the copyright laws of the United States from and after the accomplishment, before the expiration of fifteen months after the date of the President's proclamation of peace, of the conditions and formalities prescribed with respect to such works by the copyright laws of the United States: Provided further, That nothing herein contained shall be construed to deprive any person of any right which he may have acquired by the republication of such foreign work in the United States prior to the approval of this Act. (Acts March 3, 1891, c. 565, § 13, 26 Stat. 1110; March 4, 1909, c. 320, § 8, 35 Stat. 1077; Dec. 18, 1919, c. 11, § 1.)

§ 9042. **Ad interim copyright of book published abroad.**—In the case of a book first published abroad in the English language on or after the date of the President's proclamation of peace, the deposit in the copyright office, not later than sixty days after its publication abroad, of one complete copy of the foreign edition, with a request for the reservation of the copyright and a statement of the name and nationality of the author and of the copyright proprietor and of the date of publication of the said book, shall secure to the author or proprietor an ad interim copyright, which shall have all the force and effect given to copyright by this Act, and shall endure until the expiration of four months after such deposit in the copyright office. (Acts March 4, 1909, c. 320, § 21, 35 Stat. 1080; Dec. 18, 1919, c. 11, § 1.)

TITLE LXXVIII.

NATIONAL BANKS.

CHAPTER 2.

OBTAINING AND ISSUING CIRCULATING NOTES.

§ 9206. **Printing, denominations and form of circulating notes.**—In order to furnish suitable notes for circulation, the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury, cause plates and dies to be engraved, in the best manner to guard against counterfeiting and fraudulent alterations, and shall have printed therefrom and numbered such quantity of circulating notes in blank, or bearing engraved signatures of officers as herein provided, of the denominations of \$1, \$2, \$5, \$10, \$20, \$50, \$100, \$500, and \$1,000, as may be required to supply the associations entitled to receive the same. Such notes shall express upon their face that they are secured by United States bonds deposited with the Treasurer of the United States, by the written or engraved signatures of the Treasurer and Register, and by the imprint of the seal of the Treasury; and shall also express upon their face the promise of the association receiving the same to pay on demand, attested by the written or engraved signatures of the president or vice president and cashier; and shall bear such devices and such other statements and shall be in such form as the Secretary of the Treasury shall, by regulation, direct. (R. S. § 5172; Acts June 3, 1864, c. 106, § 22, 13 Stat. 105; May 30, 1908, c. 229, § 11, 35 Stat. 551; Dec. 23, 1913, c. 6, § 27, 38 Stat. 274; Aug. 4, 1914, c. 225, 38 Stat. 682; March 3, 1919, c. 101, § 4.)

§ 9212. **For what demands national bank notes may be received.**—Any association receiving circulating notes under this title may, if its promise to pay such notes on demand is expressed thereon attested by the written or engraved signatures of the president or vice president and the cashier thereof in such manner as to make them obligatory promissory notes payable on demand at its place of business, issue, and circulate the same as money. Such written or engraved signatures of the president or vice president and the cashier of such association may be attached to such notes either before or after the receipt of such notes by such association. And such notes shall be received at par in all parts of the United States in payment of taxes, excises, public lands, and all other dues to the United States, except duties on imports; and also for all salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States, except interest on the public debt, and in redemption of the national currency. (R. S. § 5182; Act June 3, 1864, c. 106, § 23, 13 Stat. 106; Jan. 13, 1920, c. 38.)

CHAPTER 3.

REGULATION OF THE BANKING BUSINESS.

§ 9234. Limit to liabilities for one person or corporation.—The total liabilities to any association of any person or of any company, corporation, or firm for money borrowed, including in the liabilities of a company or firm the liabilities of the several members thereof, shall at no time exceed 10 per centum of the amount of the capital stock of such association, actually paid in and unimpaired, and 10 per centum of its unimpaired surplus fund: Provided, however, That (1) the discount of bills of exchange drawn in good faith against actually existing values, including drafts and bills of exchange secured by shipping documents conveying or securing title to goods shipped, and including demand obligations when secured by documents covering commodities in actual process of shipment, and also including bankers' acceptances of the kinds described in section 13 of the Federal Reserve Act, (2) the discount of commercial or business paper actually owned by the person, company, corporation, or firm negotiating the same, (3) the discount of notes secured by shipping documents, warehouse receipts, or other such documents conveying or securing title covering readily marketable nonperishable staples, including live stock, when the actual market value of the property securing the obligation is not at any time less than 115 per centum of the face amount of the notes secured by such documents and when such property is fully covered by insurance, and (4) the discount of any note or notes secured by not less than a like face amount of bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States, shall not be considered as money borrowed within the meaning of this section. The total liabilities to any association, of any person or of any corporation, or firm, or company, or the several members thereof upon any note or notes purchased or discounted by such association and secured by bonds, notes, or certificates of indebtedness as described in (4) hereof shall not exceed (except to the extent permitted by rules and regulations prescribed by the Comptroller of the Currency, with the approval of the Secretary of the Treasury) 10 per centum of such capital stock and surplus fund of such association and the total liabilities to any association of any person or of any corporation, or firm, or company, or the several members thereof for money borrowed, including the liabilities upon notes secured in the manner described under (3) hereof, except transactions (1), (2), and (4), shall not at any time exceed 25 per centum of the amount of the association's paid-in and unimpaired capital stock and surplus. The exception made under (3) hereof shall not apply to the notes of any one person, corporation or firm or company, or the several members thereof for more than six months in any consecutive twelve months. (R. S. § 5200; Acts June 3, 1864, c. 106, § 29, 13 Stat. 108; June 22, 1906, c. 3516, 34 Stat. 451; Sept. 24, 1918, § 6, 40 Stat.; Oct. 22, 1919, c. 79, § 1.)

§ 9236. Limit upon indebtedness by bank.—No national banking association shall at any time be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, except on account of demands of the nature following:

First. Notes of circulation.

Second. Moneys deposited with or collected by the association.

Third. Bills of exchange or drafts drawn against money actually on deposit to the credit of the association, or due thereto.

Fourth. Liabilities to the stockholders of the association for dividends and reserve profits.

Fifth. Liabilities incurred under the provisions of the Federal Reserve Act.

Sixth. Liabilities incurred under the provisions of the War Finance Corporation Act.

Seventh. Liabilities created by the indorsement of accepted bills of exchange payable abroad actually owned by the indorsing bank and discounted at home or abroad. (R. S. § 5202; Acts June 3, 1864, c. 106, § 36, 13 Stat. 110; Dec. 23, 1913, c. 6, § 13, 38 Stat. 264; Sept. 7, 1916, c. 461, 39 Stat. 753; April 5, 1918, c. 45, § 20, 40 Stat.; Oct. 22, 1919, c. 80, § 2.)

CHAPTER 5.

FEDERAL RESERVE BANKS.

§ 9290. Division of earnings; taxation.—After all necessary expenses of a Federal reserve bank have been paid or provided for, the stockholders shall be entitled to receive an annual dividend of six per centum on the paid-in capital stock, which dividend shall be cumulative. After the aforesaid dividend claims have been fully met, the net earnings shall be paid to the United States as a franchise tax except that the whole of such net earnings, including those for the year ending December thirty-first, nineteen hundred and eighteen, shall be paid into a surplus fund until it shall amount to one hundred per centum of the subscribed capital stock of such bank, and that thereafter ten per centum of such net earnings shall be paid into the surplus.

The net earnings derived by the United States from Federal reserve banks shall, in the discretion of the Secretary, be used to supplement the gold reserve held against outstanding United States notes, or shall be applied to the reduction of the outstanding bonded indebtedness of the United States under regulations to be prescribed by the Secretary of the Treasury. Should a Federal reserve bank be dissolved or go into liquidation, any surplus remaining, after the payment of all debts, dividend requirements as hereinbefore provided, and the par value of the stock, shall be paid to and become the property of the United States and shall be similarly applied.

Federal reserve banks, including the capital stock and surplus therein, and the income derived therefrom shall be exempt from Federal, State, and local taxation, except taxes upon real estate. (Acts Dec. 23, 1913, c. 6, § 7, 38 Stat. 258; March 3, 1919, c. 101, § 1.)

§ 9292. Federal Reserve Board.—A Federal Reserve Board is hereby created which shall consist of seven members, including the Secretary of the Treasury and the Comptroller of the Currency, who shall be members ex officio, and five members appointed by the President of the United States, by and with the advice and consent of the Senate. In selecting the five appointive members of the Federal Reserve Board, not more than one of whom shall be selected from any one Federal reserve district, the President shall have due regard to a fair representation of the different commercial, industrial and geographical divisions of the country. The five members of the Federal Reserve Board appointed by the President and confirmed as aforesaid shall devote their entire time to the business of the Federal Reserve Board and shall each receive an annual salary of \$12,000, payable monthly together with actual necessary traveling expenses, and the Comptroller of the Currency, as ex officio member of the Federal Reserve Board, shall, in addition to the salary now paid him as Comptroller of the Currency, receive the sum of \$7,000 annually for his services as a member of said board. The Secretary of the Treasury and the Comptroller of the Currency shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any member bank. The appointive members of the Federal Reserve Board shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any member bank, except that this restriction shall not apply to a member who has served the full term for which he was appointed. Of the five members thus appointed by the President at least two shall be persons experienced in banking or finance. One shall be designated by the President to serve for two, one for four, one for six, one for eight, and one for ten years, and thereafter each member so appointed shall serve for a term of ten years unless sooner removed for cause by the President. Of the five persons thus appointed, one shall be designated by the President as governor and one as vice governor of the Federal Reserve Board. The governor of the Federal Reserve Board, subject to its supervision, shall be the active executive officer. The Secretary of the Treasury may assign offices in the Department of the Treasury for the use of the Federal Reserve Board. Each member of the Federal Reserve Board shall within fifteen days after notice of appointment make and subscribe to the oath of office.

The Federal Reserve Board shall have power to levy semiannually upon the Federal reserve banks, in proportion to their capital stock and surplus, an assessment sufficient to pay its estimated expenses and the salaries of its members and employees for the half year succeeding the levying of such assessment, together with any deficit carried forward from the preceding half year.

The first meeting of the Federal Reserve Board shall be held in Washington, District of Columbia, as soon as may be after the passage of this Act, at a date to be fixed by the Reserve Bank Organization Committee. The Secretary of the Treasury shall be ex officio chairman of the Federal Reserve Board. No member of the Federal Reserve Board shall be an officer or director of any bank, banking institution, trust company or Federal reserve bank, nor hold stock in any bank, banking institution, or trust company; and before entering upon his duties as a member of the Federal Reserve Board he shall certify under oath to the Secretary of the Treasury that he has complied with this requirement. Whenever a vacancy shall occur, other than by expiration of term, among the five members of the Federal Reserve Board appointed by the President, as above provided, a successor shall be appointed by the President, with the advice and consent of the Senate, to fill such vacancy, and when appointed he shall hold office for the unexpired term of the member whose place he is selected to fill.

The President shall have power to fill all vacancies that may happen on the Federal Reserve Board during the recess of the Senate, by granting commissions which shall expire thirty days after the next session of the Senate convenes.

Nothing in this Act contained shall be construed as taking away any powers heretofore vested by law in the Secretary of the Treasury which relate to the supervision, management, and control of the Treasury Department and bureaus under such department, and wherever any power vested by this Act in the Federal Reserve Board or the Federal reserve agent appears to conflict with the powers of the Secretary of the Treasury, such powers shall be exercised subject to the supervision and control of the Secretary.

The Federal Reserve Board shall annually make a full report of its operations to the Speaker of the House of Representatives, who shall cause the same to be printed for the information of the Congress. (Acts Dec. 23, 1913, c. 6, § 10, 38 Stat. 260; March 3, 1919, c. 101, § 2.)

§ 9293. Enumerated powers of Federal Reserve Board.—The Federal Reserve Board shall be authorized and empowered:

(a) To examine at its discretion the accounts, books and affairs of each Federal reserve bank and of each member bank and to require such statements and reports as it may deem necessary. The said board shall publish once each week a statement showing the condition of each Federal reserve bank and a consolidated statement for all Federal reserve banks. Such statements shall show in detail the assets and liabilities of the Federal reserve banks, single and combined, and shall furnish full information regarding the character of the money held as reserve and the amount, nature and maturities of the paper and other investments owned or held by Federal reserve banks.

(b) To permit, or, on the affirmative vote of at least five members of the Reserve Board to require Federal reserve banks to rediscount the discounted paper of other Federal reserve banks at rates of interest to be fixed by the Federal Reserve Board.

(c) To suspend for a period not exceeding thirty days, and from time to time to renew such suspension for periods not exceeding fifteen days, any reserve requirement specified in this Act: Provided, That it shall establish a graduated tax upon the amounts by which the reserve requirements of this Act may be permitted to fall below the level hereinafter specified: And provided further, That when the gold reserve held against Federal reserve notes falls below forty per centum, the Federal Reserve Board shall establish a graduated tax of not more than one per centum per annum upon such deficiency until the reserves fall to thirty-two and one-half per centum, and when said reserve falls below thirty-two and one-half per centum, a tax at the rate increasingly of not less than one and one-half per centum per annum upon each two and one-half per centum or fraction thereof that such reserve falls below thirty-two and one-half

per centum. The tax shall be paid by the reserve bank, but the reserve bank shall add an amount equal to said tax to the rates of interest and discount fixed by the Federal Reserve Board.

(d) To supervise and regulate through the bureau under the charge of the Comptroller of the Currency the issue and retirement of Federal reserve notes, and to prescribe rules and regulations under which such notes may be delivered by the Comptroller to the Federal reserve agents applying therefor.

(e) To add to the number of cities classified as reserve and central reserve cities under existing law in which national banking associations are subject to the reserve requirements set forth in section twenty of this Act; or to reclassify existing reserve and central reserve cities or to terminate their designation as such.

(f) To suspend or remove any officer or director of any Federal reserve bank, the cause of such removal to be forthwith communicated in writing by the Federal Reserve Board to the removed officer or director and to said bank.

(g) To require the writing off of doubtful or worthless assets upon the books and balance sheets of Federal reserve banks.

(h) To suspend, for the violation of any of the provisions of this Act, the operations of any Federal reserve bank, to take possession thereof, administer the same during the period of suspension, and, when deemed advisable, to liquidate or reorganize such bank.

(i) To require bonds of Federal reserve agents, to make regulations for the safeguarding of all collateral, bonds, Federal reserve notes, money or property of any kind deposited in the hands of such agents and said board shall perform the duties, functions, or services specified in this Act, and make all rules and regulations necessary to enable said board effectively to perform the same.

(j) To exercise general supervision over said Federal reserve banks.

(k) To grant by special permit to national banks applying therefor, when not in contravention of State or local law, the right to act as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with national banks are permitted to act under the laws of the State in which the national bank is located. Whenever the laws of such State authorize or permit the exercise of any or all of the foregoing powers by State banks, trust companies or other corporations which compete with national banks, the granting to and the exercise of such powers by national banks shall not be deemed to be in contravention of State or local law within the meaning of this Act. National banks exercising any or all of the powers enumerated in this subsection shall segregate all assets held in any fiduciary capacity from the general assets of the bank and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this subsection. Such books and records shall be open to inspection by the State authorities to the same extent as the books and records of corporations organized under State law which exercise fiduciary powers, but nothing in this Act shall be construed as authorizing the State authorities to examine the books, records, and assets of the national bank which are not held in trust under authority of this subsection. No national bank shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the bank awaiting investment shall be carried in a separate account and shall not be used by the bank in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Federal Reserve Board. In the event of the failure of such bank the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the bank. Whenever the laws of a State require corporations acting in a fiduciary capacity, to deposit securities with the State authorities for the protection of private or court trusts, national banks so acting shall be required to make similar deposits and securities so deposited shall be held for the protection of private or court trusts, as provided by the State law. National banks in such cases shall not be required to execute

the bond usually required of individuals if State corporations under similar circumstances are exempt from this requirement. National banks shall have power to execute such bond when so required by the laws of the State. In any case in which the laws of a State require that a corporation acting as trustee, executor, administrator, or in any capacity specified in this section, shall take an oath or make an affidavit, the president, vice president, cashier, or trust officer of such national bank may take the necessary oath or execute the necessary affidavit. It shall be unlawful for any national banking association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than \$5,000, or imprisoned not more than five years, or may be both fined and imprisoned, in the discretion of the court. In passing upon applications for permission to exercise the powers enumerated in this subsection, the Federal Reserve Board may take into consideration the amount of capital and surplus of the applying bank, whether or not such capital and surplus is sufficient under the circumstances of the case, the needs of the community to be served, and any other facts and circumstances that seem to it proper, and may grant or refuse the application accordingly: Provided, That no permit shall be issued to any national banking association having a capital and surplus less than the capital and surplus required by State law of State banks, trust companies, and corporations exercising such powers.

(l) To employ such attorneys, experts, assistants, clerks, or other employees as may be deemed necessary to conduct the business of the board. All salaries and fees shall be fixed in advance by said board and shall be paid in the same manner as the salaries of the members of said board. All such attorneys, experts, assistants, clerks, and other employees shall be appointed without regard to the provisions of the Act of January sixteenth, eighteen hundred and eighty-three (volume twenty-two, United States Statutes at Large, page four hundred and three), and amendments thereto, or any rule or regulation made in pursuance thereof: Provided, That nothing herein shall prevent the President from placing said employees in the classified service.

(m) Upon the affirmative vote of not less than five of its members, the Federal Reserve Board shall have power to permit Federal reserve banks to discount for any member bank notes, drafts, or bills of exchange bearing the signature or endorsement of any one borrower in excess of the amount permitted by section nine and section thirteen of this Act, but in no case to exceed twenty per centum of the member bank's capital and surplus: Provided, however, That all such notes, drafts, or bills of exchange discounted for any member bank in excess of the amount permitted under such sections shall be secured by not less than a like face amount of bonds or notes of the United States issued since April twenty-fourth, nineteen hundred and seventeen, or certificates of indebtedness of the United States: Provided further, That the provisions of this subsection (m) shall not be operative after December thirty-first, nineteen hundred and twenty. (Acts Dec. 23, 1913, c. 6, § 11, 38 Stat. 261; Sept. 7, 1916, c. 461, 39 Stat. 752; Sept. 26, 1918, § 2; March 3, 1919, c. 101, § 3.)

Note.—§§ 9, 13, 20, so referred to, are §§ 9291, 9295, 9302, Barnes' Federal Code.

§ 9296. Open market operations.—Any Federal reserve bank may, under rules and regulations prescribed by the Federal Reserve Board, purchase and sell in the open market, at home or abroad, either from or to domestic or foreign banks, firms, corporations, or individuals, cable transfers and bankers' acceptances and bills of exchange of the kinds and maturities by this Act made eligible for rediscount, with or without the indorsement of a member bank.

Every Federal reserve bank shall have power: (a) To deal in gold coin and bullion at home or abroad, to make loans thereon, exchange Federal reserve notes for gold, gold coin, or gold certificates, and to contract for loans of gold coin or bullion, giving therefor, when necessary, acceptable security, including the hypothecation of United States bonds or other securities which Federal reserve banks are authorized to hold;

(b) To buy and sell, at home or abroad, bonds and notes of the United States, and bills, notes, revenue bonds, and warrants with a maturity from date of purchase of not exceeding six months, issued in anticipation of

the collection of taxes or in anticipation of the receipt of assured revenues by any State, county, district, political subdivision, or municipality in the continental United States, including irrigation, drainage and reclamation districts, such purchases to be made in accordance with rules and regulations prescribed by the Federal Reserve Board;

(c) To purchase from member banks and to sell, with or without its indorsement, bills of exchange arising out of commercial transactions, as hereinbefore defined;

(d) To establish from time to time, subject to review and determination of the Federal Reserve Board, rates of discount to be charged by the Federal reserve bank for each class of paper, which shall be fixed with a view of accommodating commerce and business, and which, subject to the approval, review, and determination of the Federal Reserve Board may be graduated or progressed on the basis of the amount of the advances and discount accommodations extended by the Federal reserve bank to the borrowing bank;

(e) To establish accounts with other Federal reserve banks for exchange purposes and, with the consent or upon the order and direction of the Federal Reserve Board and under regulations to be prescribed by said board, to open and maintain accounts in foreign countries, appoint correspondents, and establish agencies in such countries wheresoever it may be deemed best for the purpose of purchasing, selling, and collecting bills of exchange, and to buy and sell, with or without its indorsement, through such correspondents or agencies, bills of exchange (or acceptances) arising out of actual commercial transactions which have not more than ninety days to run, exclusive of days of grace, and which bear the signature of two or more responsible parties, and, with the consent of the Federal Reserve Board, to open and maintain banking accounts for such foreign correspondents or agencies. Whenever any such account has been opened or agency or correspondent has been appointed by a Federal reserve bank, with the consent of or under the order and direction of the Federal Reserve Board, any other Federal reserve bank may, with the consent and approval of the Federal Reserve Board, be permitted to carry on or conduct, through the Federal reserve bank opening such account or appointing such agency or correspondent, any transaction authorized by this section under rules and regulations to be prescribed by the board. (Acts Dec. 23, 1913, c. 6, § 14, 38 Stat. 264; Sept. 7, 1916, c. 461, 39 Stat. 754; June 21, 1917, c. 32, § 6, 40 Stat. 235; April 13, 1920, c. 128.)

§ 9305. Branches in foreign countries.—Any national banking association possessing a capital and surplus of \$1,000,000 or more may file application with the Federal Reserve Board for permission to exercise, upon such conditions and under such regulations as may be prescribed by the said board, either or both of the following powers:

First. To establish branches in foreign countries or dependencies or insular possessions of the United States for the furtherance of the foreign commerce of the United States, and to act if required to do so as fiscal agents of the United States.

Second. To invest an amount not exceeding in the aggregate ten per centum of its paid-in capital stock and surplus in the stock of one or more banks or corporations chartered or incorporated under the laws of the United States or of any State thereof, and principally engaged in international or foreign banking, or banking in a dependency or insular possession of the United States either directly or through the agency, ownership, or control of local institutions in foreign countries, or in such dependencies or insular possessions.

Until January 1, 1921, any national banking association, without regard to the amount of its capital and surplus, may file application with the Federal Reserve Board for permission, upon such conditions and under such regulations as may be prescribed by said board, to invest an amount not exceeding in the aggregate 5 per centum of its paid-in capital and surplus in the stock of one or more corporations chartered or incorporated under the laws of the United States or of any State thereof and, regardless of its location, principally engaged in such phases of international or foreign financial operations as may be necessary to facilitate the export of goods, wares, or merchandise from the United States or any of its dependencies or insular possessions to any foreign country: Provided, however, That in

no event shall the total investments authorized by this section by any one national bank exceed 10 per centum of its capital and surplus.

Such application shall specify the name and capital of the banking association filing it, the powers applied for, and the place or places where the banking or financial operations proposed are to be carried on. The Federal Reserve Board shall have power to approve or to reject such application in whole or in part if for any reason the granting of such application is deemed inexpedient, and shall also have power from time to time to increase or decrease the number of places where such banking operations may be carried on.

Every national banking association operating foreign branches shall be required to furnish information concerning the condition of such branches to the Comptroller of the Currency upon demand, and every member bank investing in the capital stock of banks or corporations described above shall be required to furnish information concerning the condition of such banks or corporations to the Federal Reserve Board upon demand, and the Federal Reserve Board may order special examinations of the said branches, banks, or corporations at such time or times as it may deem best.

Before any national bank shall be permitted to purchase stock in any such corporation the said corporation shall enter into an agreement or undertaking with the Federal Reserve Board to restrict its operations or conduct its business in such manner or under such limitations and restrictions as the said board may prescribe for the place or places wherein such business is to be conducted. If at any time the Federal Reserve Board shall ascertain that the regulations prescribed by it are not being complied with, said board is hereby authorized and empowered to institute an investigation of the matter and to send for persons and papers, subpoena witnesses, and administer oaths in order to satisfy itself as to the actual nature of the transactions referred to. Should such investigation result in establishing the failure of the corporation in question, or of the national bank or banks which may be stockholders therein, to comply with the regulations laid down by the said Federal Reserve Board, such national banks may be required to dispose of stock holdings in the said corporation upon reasonable notice.

Every such national banking association shall conduct the accounts of each foreign branch independently of the accounts of other foreign branches established by it and of its home office, and shall at the end of each fiscal period transfer to its general ledger the profit or loss accrued at each branch as a separate item.

Any director or other officer, agent, or employee of any member bank may, with the approval of the Federal Reserve Board, be a director or other officer, agent, or employee of any such bank or corporation above mentioned in the capital stock of which such member bank shall have invested as hereinbefore provided, without being subject to the provisions of section eight of the Act approved October fifteenth, nineteen hundred and fourteen, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes." (Acts Dec. 23, 1913, c. 6, § 25, 38 Stat. 273; Sept. 7, 1916, c. 461, 39 Stat. 755; Sept. 17, 1919, c. 60, §§ 1-3.)

§ 9305a. Banking corporations authorized to do foreign banking business.—Corporations to be organized for the purpose of engaging in international or foreign banking or other international or foreign financial operations, or in banking or other financial operations in a dependency or insular possession of the United States, either directly or through the agency, ownership, or control of local institutions in foreign countries, or in such dependencies or insular possessions as provided by this section, and to act when required by the Secretary of the Treasury as fiscal agents of the United States, may be formed by any number of natural persons, not less in any case than five.

Such persons shall enter into articles of association which shall specify in general terms the objects for which the association is formed and may contain any other provisions not inconsistent with law which the association may see fit to adopt for the regulation of its business and the conduct of its affairs.

Such articles of association shall be signed by all of the persons intending to participate in the organization of the corporation and, thereafter, shall be forwarded to the Federal Reserve Board and shall be filed and

preserved in its office. The persons signing the said articles of association shall, under their hands, make an organization certificate which shall specifically state:

First. The name assumed by such corporation, which shall be subject to the approval of the Federal Reserve Board.

Second. The place or places where its operations are to be carried on.

Third. The place in the United States where its home office is to be located.

Fourth. The amount of its capital stock and the number of shares into which the same shall be divided.

Fifth. The names and places of business or residence of the persons executing the certificate and the number of shares to which each has subscribed.

Sixth. The fact that the certificate is made to enable the persons subscribing the same, and all other persons, firms, companies, and corporations, who or which may thereafter subscribe to or purchase shares of the capital stock of such corporation, to avail themselves of the advantages of this section.

The persons signing the organization certificate shall duly acknowledge the execution thereof before a judge of some court of record or notary public, who shall certify thereto under the seal of such court or notary, and thereafter the certificate shall be forwarded to the Federal Reserve Board to be filed and preserved in its office. Upon duly making and filing articles of association and an organization certificate, and after the Federal Reserve Board has approved the same and issued a permit to begin business, the association shall become and be a body corporate, and as such and in the name designated therein shall have power to adopt and use a corporate seal, which may be changed at the pleasure of its board of directors; to have succession for a period of twenty years unless sooner dissolved by the act of the shareholders owning two-thirds of the stock or by an Act of Congress or unless its franchises become forfeited by some violation of law; to make contracts; to sue and be sued, complain, and defend in any court of law or equity; to elect or appoint directors, all of whom shall be citizens of the United States; and, by its board of directors, to appoint such officers and employees as may be deemed proper, define their authority and duties, require bonds of them, and fix the penalty thereof, dismiss such officers or employees, or any thereof, at pleasure and appoint others to fill their places; to prescribe, by its board of directors, by-laws not inconsistent with law or with the regulations of the Federal Reserve Board regulating the manner in which its stock shall be transferred, its directors elected or appointed, its officers and employees appointed, its property transferred, and the privileges granted to it by law exercised and enjoyed.

Each corporation so organized shall have power, under such rules and regulations as the Federal Reserve Board may prescribe:

(a) To purchase, sell, discount, and negotiate, with or without its indorsement or guaranty, notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to purchase and sell, with or without its indorsement or guaranty, securities, including the obligations of the United States or of any State thereof but not including shares of stock in any corporation except as herein provided; to accept bills or drafts drawn upon it subject to such limitations and restrictions as the Federal Reserve Board may impose; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to issue debentures, bonds, and promissory notes under such general conditions as to security and such limitations as the Federal Reserve Board may prescribe, but in no event having liabilities outstanding thereon at any one time exceeding ten times its capital stock and surplus; to receive deposits outside of the United States and to receive only such deposits within the United States as may be incidental to or for the purpose of carrying out transactions in foreign countries or dependencies or insular possessions of the United States; and generally to exercise such powers as are incidental to the powers conferred by this Act or as may be usual, in the determination of the Federal Reserve Board, in connection with the transaction of the business of banking or other financial operations in the countries, colonies, dependencies, or possessions in which it shall transact business and not inconsistent with

the powers specifically granted herein. Nothing contained in this section shall be construed to prohibit the Federal Reserve Board, under its power to prescribe rules and regulations, from limiting the aggregate amount of liabilities of any or all classes incurred by the corporation and outstanding at any one time. Whenever a corporation organized under this section receives deposits in the United States authorized by this section it shall carry reserves in such amounts as the Federal Reserve Board may prescribe, but in no event less than 10 per centum of its deposits.

(b) To establish and maintain for the transaction of its business branches or agencies in foreign countries, their dependencies or colonies, and in the dependencies or insular possessions of the United States, at such places as may be approved by the Federal Reserve Board and under such rules and regulations as it may prescribe, including countries or dependencies not specified in the original organization certificate.

(c) With the consent of the Federal Reserve Board to purchase and hold stock or other certificates of ownership in any other corporation organized under the provisions of this section, or under the laws of any foreign country or a colony or dependency thereof, or under the laws of any State, dependency, or insular possession of the United States but not engaged in the general business of buying or selling goods, wares, merchandise or commodities in the United States, and not transacting any business in the United States except such as in the judgment of the Federal Reserve Board may be incidental to its international or foreign business: Provided, however, That, except with the approval of the Federal Reserve Board, no corporation organized hereunder shall invest in any one corporation an amount in excess of 10 per centum of its own capital and surplus, except in a corporation engaged in the business of banking, when 15 per centum of its capital and surplus may be so invested: Provided further, That no corporation organized hereunder shall purchase, own, or hold stock or certificates of ownership in any other corporation organized hereunder or under the laws of any State which is in substantial competition therewith, or which holds stock or certificates of ownership in corporations which are in substantial competition with the purchasing corporation.

Nothing contained herein shall prevent corporations organized hereunder from purchasing and holding stock in any corporation where such purchase shall be necessary to prevent a loss upon a debt previously contracted in good faith; and stock so purchased or acquired in corporations organized under this section shall within six months from such purchase be sold or disposed of at public or private sale unless the time to so dispose of same is extended by the Federal Reserve Board.

No corporation organized under this section shall carry on any part of its business in the United States except such as, in the judgment of the Federal Reserve Board, shall be incidental to its international or foreign business: And provided further, That except such as is incidental and preliminary to its organization no such corporation shall exercise any of the powers conferred by this section until it has been duly authorized by the Federal Reserve Board to commence business as a corporation organized under the provisions of this section.

No corporation organized under this section shall engage in commerce or trade in commodities except as specifically provided in this section, nor shall it either directly or indirectly control or fix or attempt to control or fix the price of any such commodities. The charter of any corporation violating this provision shall be subject to forfeiture in the manner herein-after provided in this section. It shall be unlawful for any director, officer, agent, or employee of any such corporation to use or to conspire to use the credit, the funds, or the power of the corporation to fix or control the price of any such commodities, and any such person violating this provision shall be liable to a fine of not less than \$1,000 and not exceeding \$5,000 or imprisonment not less than one year and not exceeding five years, or both, in the discretion of the court.

No corporation shall be organized under the provisions of this section with a capital stock of less than \$2,000,000, one-quarter of which must be paid in before the corporation may be authorized to begin business, and the remainder of the capital stock of such corporation shall be paid in installments of at least 10 per centum on the whole amount to which the corporation shall be limited as frequently as one installment at the end

of each succeeding two months from the time of the commencement of its business operations until the whole of the capital stock shall be paid in. The capital stock of any such corporation may be increased at any time, with the approval of the Federal Reserve Board, by a vote of two-thirds of its shareholders or by unanimous consent in writing of the shareholders without a meeting and without a formal vote, but any such increase of capital shall be fully paid in within ninety days after such approval; and may be reduced in like manner, provided that in no event shall it be less than \$2,000,000. No corporation, except as herein provided, shall during the time it shall continue its operations withdraw or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. Any national banking association may invest in the stock of any corporation organized under the provisions of this section, but the aggregate amount of stock held in all corporations engaged in business of the kind described in this section and in section 25 of the Federal Reserve Act as amended shall not exceed 10 per centum of the subscribing bank's capital and surplus.

A majority of the shares of the capital stock of any such corporation shall at all times be held and owned by citizens of the United States, by corporations the controlling interest in which is owned by citizens of the United States, chartered under the laws of the United States or of a State of the United States, or by firms or companies, the controlling interest in which is owned by citizens of the United States. The provisions of section 8 of the Act approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," as amended by the Acts of May 15, 1916, and September 7, 1916, shall be construed to apply to the directors, other officers, agents, or employees of corporations organized under the provisions of this section: Provided, however, That nothing herein contained shall (1) prohibit any director or other officer, agent or employee of any member bank, who has procured the approval of the Federal Reserve Board from serving at the same time as a director or other officer, agent or employee of any corporation organized under the provisions of this section in whose capital stock such member bank shall have invested; or (2) prohibit any director or other officer, agent, or employee of any corporation organized under the provisions of this section, who has procured the approval of the Federal Reserve Board, from serving at the same time as a director or other officer, agent or employee of any other corporation in whose capital stock such first-mentioned corporation shall have invested under the provisions of this section.

No member of the Federal Reserve Board shall be an officer or director of any corporation organized under the provisions of this section, or of any corporation engaged in similar business organized under the laws of any State, nor hold stock in any such corporation, and before entering upon his duties as a member of the Federal Reserve Board he shall certify under oath to the Secretary of the Treasury that he has complied with this requirement.

Shareholders in any corporation organized under the provisions of this section shall be liable for the amount of their unpaid stock subscriptions. No such corporation shall become a member of any Federal reserve bank.

Should any corporation organized hereunder violate or fail to comply with any of the provisions of this section, all of its rights, privileges, and franchises derived herefrom may thereby be forfeited. Before any such corporation shall be declared dissolved, or its rights, privileges, and franchises forfeited, any noncompliance with, or violation of such laws shall, however, be determined and adjudged by a court of the United States of competent jurisdiction, in a suit brought for that purpose in the district or territory in which the home office of such corporation is located, which suit shall be brought by the United States at the instance of the Federal Reserve Board or the Attorney General. Upon adjudication of such non-compliance or violation, each director and officer who participated in, or assented to, the illegal act or acts, shall be liable in his personal or individual capacity for all damages which the said corporation shall have sustained in consequence thereof. No dissolution shall take away or impair any remedy against the corporation, its stockholders, or officers for any liability or penalty previously incurred.

Any such corporation may go into voluntary liquidation and be closed by a vote of its shareholders owning two-thirds of its stock.

Whenever the Federal Reserve Board shall become satisfied of the insolvency of any such corporation, it may appoint a receiver who shall take possession of all of the property and assets of the corporation and exercise the same rights, privileges, powers, and authority with respect thereto as are now exercised by receivers of national banks appointed by the Comptroller of the Currency of the United States: Provided, however, That the assets of the corporation subject to the laws of other countries or jurisdictions shall be dealt with in accordance with the terms of such laws.

Every corporation organized under the provisions of this section shall hold a meeting of its stockholders annually upon a date fixed in its by-laws, such meeting to be held at its home office in the United States. Every such corporation shall keep at its home office books containing the names of all stockholders thereof, and the names and addresses of the members of its board of directors, together with copies of all reports made by it to the Federal Reserve Board. Every such corporation shall make reports to the Federal Reserve Board at such times and in such form as it may require; and shall be subject to examination once a year and at such other times as may be deemed necessary by the Federal Reserve Board by examiners appointed by the Federal Reserve Board, the cost of such examinations, including the compensation of the examiners, to be fixed by the Federal Reserve Board and to be paid by the corporation examined.

The directors of any corporation organized under the provisions of this section may, semiannually, declare a dividend of so much of the net profits of the corporation as they shall judge expedient; but each corporation shall, before the declaration of a dividend, carry one-tenth of its net profits of the preceding half year to its surplus fund until the same shall amount to 20 per centum of its capital stock.

Any corporation organized under the provisions of this section shall be subject to tax by the State within which its home office is located in the same manner and to the same extent as other corporations organized under the laws of that State which are transacting a similar character of business. The shares of stock in such corporation shall also be subject to tax as the personal property of the owners or holders thereof in the same manner and to the same extent as the shares of stock in similar State corporations.

Any corporation organized under the provisions of this section may at any time within the two years next previous to the date of the expiration of its corporate existence, by a vote of the shareholders owning two-thirds of its stock, apply to the Federal Reserve Board for its approval to extend the period of its corporate existence for a term of not more than twenty years, and upon certified approval of the Federal Reserve Board such corporation shall have its corporate existence for such extended period unless sooner dissolved by the act of the shareholders owning two-thirds of its stock, or by an Act of Congress or unless its franchise becomes forfeited by some violation of law.

Any bank or banking institution, principally engaged in foreign business, incorporated by special law of any State or of the United States or organized under the general laws of any State or of the United States and having an unimpaired capital sufficient to entitle it to become a corporation under the provisions of this section may, by the vote of the shareholders owning not less than two-thirds of the capital stock of such bank or banking association, with the approval of the Federal Reserve Board, be converted into a Federal corporation of the kind authorized by this section with any name approved by the Federal Reserve Board: Provided, however, That said conversion shall not be in contravention of the State law. In such case the articles of association and organization certificate may be executed by a majority of the directors of the bank or banking institution, and the certificate shall declare that the owners of at least two-thirds of the capital stock have authorized the directors to make such certificate and to change or convert the bank or banking institution into a Federal corporation. A majority of the directors, after executing the articles of association and the organization certificate, shall have power to execute all other papers and to do whatever may be required to make its organization perfect and complete as a Federal corporation. The shares

of any such corporation may continue to be for the same amount each as they were before the conversion, and the directors may continue to be directors of the corporation until others are elected or appointed in accordance with the provisions of this section. When the Federal Reserve Board has given to such corporation a certificate that the provisions of this section have been complied with, such corporation and all its stockholders, officers, and employees, shall have the same powers and privileges, and shall be subject to the same duties, liabilities, and regulations, in all respects, as shall have been prescribed by this section for corporations originally organized hereunder.

Every officer, director, clerk, employee, or agent of any corporation organized under this section who embezzles, abstracts, or willfully misapplies any of the moneys, funds, credits, securities, evidences of indebtedness or assets of any character of such corporation; or who, without authority from the directors, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, debenture, draft, bill of exchange, mortgage, judgment, or decree; or who makes any false entry in any book, report, or statement of such corporation with intent, in either case, to injure or defraud such corporation or any other company, body politic or corporate, or any individual person, or to deceive any officer of such corporation, the Federal Reserve Board, or any agent or examiner appointed to examine the affairs of any such corporation; and every receiver of any such corporation and every clerk or employee of such receiver who shall embezzle, abstract, or willfully misapply or wrongfully convert to his own use any moneys, funds, credits, or assets of any character which may come into his possession or under his control in the execution of his trust or the performance of the duties of his employment; and every such receiver or clerk or employee of such receiver who shall, with intent to injure or defraud any person, body politic or corporate, or to deceive or mislead the Federal Reserve Board, or any agent or examiner appointed to examine the affairs of such receiver, shall make any false entry in any book, report, or record of any matter connected with the duties of such receiver; and every person who with like intent aids or abets any officer, director, clerk, employee, or agent of any corporation organized under this section, or receiver or clerk or employee of such receiver as aforesaid in any violation of this section, shall upon conviction thereof be imprisoned for not less than two years nor more than ten years, and may also be fined not more than \$5,000, in the discretion of the court.

Whoever being connected in any capacity with any corporation organized under this section represents in any way that the United States is liable for the payment of any bond or other obligation, or the interest thereon, issued or incurred by any corporation organized hereunder, or that the United States incurs any liability in respect of any act or omission of the corporation, shall be punished by a fine of not more than \$10,000 and by imprisonment for not more than five years. (Act Dec. 23, 1913, c. 6, § 25a, as added by Act Dec. 24, 1919, c. 18.)

TITLE LXXIX.

FEDERAL FARM LOANS.

§ 9311. Federal Farm Loan Board and Bureau.—There shall be established at the seat of government in the Department of the Treasury a bureau charged with the execution of this Act and of all Acts amendatory thereof, to be known as the Federal Farm Loan Bureau, under the general supervision of a Federal Farm Loan Board.

Said Federal Farm Loan Board shall consist of five members, including the Secretary of the Treasury, who shall be a member and chairman ex officio, and four members to be appointed by the President of the United States, by and with the advice and consent of the Senate. Of the four members to be appointed by the President, not more than two shall be

appointed from one political party, and all four of said members shall be citizens of the United States and shall devote their entire time to the business of the Federal Farm Loan Board; they shall receive an annual salary of \$10,000 payable monthly, together with actual necessary traveling expenses.

One of the members to be appointed by the President shall be designated by him to serve for two years, one for four years, one for six years, and one for eight years, and thereafter each member so appointed shall serve for a term of eight years, unless sooner removed for cause by the President. One of the members shall be designated by the President as the Farm Loan Commissioner, who shall be the active executive officer of said board. Each member of the Federal Farm Loan Board shall within fifteen days after notice of his appointment take and subscribe to the oath of office.

The first meeting of the Federal Farm Loan Board shall be held in Washington as soon as may be after the passage of this Act, at a date and place to be fixed by the Secretary of the Treasury.

No member of the Federal Farm Loan Board shall, during his continuance in office, be an officer or director of any other institution, association, or partnership engaged in banking, or in the business of making land mortgage loans or selling land mortgages. Before entering upon his duties as a member of the Federal Farm Loan Board each member shall certify under oath to the President that he is eligible under this section.

The President shall have the power, by and with the advice and consent of the Senate, to fill any vacancy occurring in the membership of the Federal Farm Loan Board; if such vacancy shall be filled during the recess of the Senate a commission shall be granted which shall expire at the end of the next session.

The Federal Farm Loan Board shall appoint a farm loan registrar in each land bank district to receive applications for issues of farm loan bonds and to perform such other services as are prescribed by this Act, and may appoint a deputy registrar who shall during the unavoidable absence or disability of the registrar perform the duties of that office. It shall also appoint one or more land bank appraisers for each land bank district and as many land bank examiners as it shall deem necessary. Farm loan registrars, deputy registrars, land bank appraisers, and land bank examiners appointed under this section shall be public officials and shall, during their continuance in office, have no connection with or interest in any other institution, association, or partnership engaged in banking or in the business of making land mortgage loans or selling land mortgages: Provided, That this limitation shall not apply to persons employed by the board temporarily to do special work.

The salaries and expenses of the Federal Farm Loan Board, and of farm loan registrars and examiners authorized under this section, shall be paid by the United States. Land bank appraisers shall receive such compensation as the Federal Farm Loan Board shall fix, and shall be paid by the Federal land banks and the joint stock land banks which they serve, in such proportion and in such manner as the Federal Farm Loan Board shall order.

The Federal Farm Loan Board shall be authorized and empowered to employ such attorneys, experts, assistants, clerks, laborers, and other employees as it may deem necessary to conduct the business of said board. All salaries and fees authorized in this section and not otherwise provided for shall be fixed in advance by said board and shall be paid in the same manner as the salaries of the Federal Farm Loan Board. All such attorneys, experts, assistants, clerks, laborers, and other employees, and all registrars, examiners, and appraisers shall be appointed without regard to the provisions of the Act of January sixteenth, eighteen hundred and eighty-three (volume twenty-two, United States Statutes at Large, page four hundred and three), and amendments thereto, or any rule or regulation made in pursuance thereof: Provided, That nothing herein shall prevent the President from placing said employees in the classified service.

Every Federal land bank shall semiannually submit to the Federal Farm Loan Board a schedule showing the salaries or rates of compensation paid to its officers and employees.

The Federal Farm Loan Board shall annually make a full report of its operations to the Speaker of the House of Representatives, who shall cause the same to be printed for the information of the Congress.

The Federal Farm Loan Board shall from time to time require examinations and reports of condition of all land banks established under the provisions of this Act and shall publish consolidated statements of the results thereof. It shall cause to be made appraisals of farm lands as provided by this Act, and shall prepare and publish amortization tables which shall be used by national farm loan associations and land banks organized under this Act.

The Federal Farm Loan Board shall prescribe a form for the statement of condition of national farm loan associations and land banks under its supervision, which shall be filled out quarterly by each such association or bank and transmitted to said board.

It shall be the duty of the Federal Farm Loan Board to prepare from time to time bulletins setting forth the principal features of this Act and through the Department of Agriculture or otherwise to distribute the same, particularly to the press, to agricultural journals, and to farmers' organizations; to prepare and distribute in the same manner circulars setting forth the principles and advantages of amortized farm loans and the protection afforded debtors under this Act, instructing farmers how to organize and conduct farm loan associations, and advising investors of the merits and advantages of farm loan bonds; and to disseminate in its discretion information for the further instruction of farmers regarding the methods and principles of cooperative credit and organization. Said board is hereby authorized to use a reasonable portion of the organization fund provided in section thirty-three of this Act for the objects specified in this paragraph, and is instructed to lay before the Congress at each session its recommendations for further appropriations to carry out said objects. (Acts July 17, 1916, c. 245, § 3, 39 Stat. 360; April 20, 1920, c. 154, § 1.)

Note 1.—By Act March 1, 1919, c. 86, § 1, appropriation is made "for traveling expenses of the members of the board and its officers and employees; per diem in lieu of subsistence, not exceeding \$4."

Note 2.—§ 33, so referred to, is § 9341, Barnes' Federal Code.

§ 9318. Appraisal of land for loan.—Whenever an application for a mortgage loan is made through a national farm loan association, the loan committee provided for in section 7 of this Act, shall forthwith make, or cause to be made, such investigation as it may deem necessary as to the character and solvency of the applicant, and the sufficiency of the security offered, and cause written report to be made of the result of such investigation, and shall, if it concurs in such report, approve the same in writing. No loan shall be made unless the report is favorable, and the loan committee is unanimous in its approval thereof.

The written report required in the preceding paragraph shall be submitted to the Federal land bank, together with the application for the loan, and the directors of said land bank shall examine said written report when they pass on the loan application which it accompanies, but they shall not be bound by said appraisal.

Before any mortgage loan is made by any Federal land bank, or joint stock land bank, it shall refer the application and written report of the loan committee to one or more of the land bank appraisers appointed under the authority of section three of this Act, and such appraiser or appraisers shall investigate and make a written report upon the land offered as security for said loan. No such loan shall be made by said land bank unless said written report is favorable.

Forms for appraisal reports for farm loan associations and land banks shall be prescribed by the Federal Farm Loan Board.

Land bank appraisers shall make such examinations and appraisals and conduct such investigations, concerning farm loan bonds and first mortgages, as the Federal Farm Loan Board shall direct.

No borrower under this Act shall be eligible as an appraiser under this section, but borrowers may act as members of a loan committee in any case where they are not personally interested in the loan under consideration. When any member of a loan committee or of a board of directors is interested, directly or indirectly, in a loan, a majority of the board of directors of any national farm loan association shall appoint a substitute to act in his place in passing upon such loan. (Acts July 17, 1916, c. 245, § 10, 39 Stat. 369; April 20, 1920, c. 154, § 2.)

Note.—§§ 3 and 7, so referred to, are §§ 9311 and 9315.

§ 9319. Powers of farm loan associations.—Every national farm loan association shall have power:

First. To indorse, and thereby become liable for the payment of, mortgages taken from its shareholders by the Federal land bank of its district.

Second. To receive from the Federal land bank of its district funds advanced by said land bank, and to deliver said funds to its shareholders on receipt of first mortgages qualified under section twelve of this Act.

Third. To fix reasonable initial charges to be made against applicants for loans and to borrowers in order to meet the necessary expenses of the association: Provided, That such charges shall not exceed amounts to be fixed by the Farm Loan Board, and shall in no case exceed 1 per centum of the amount of the loan applied for; to acquire and dispose of property, real and personal, that may be necessary or convenient for the transaction of its business.

Fourth. To issue certificates against deposits of current funds bearing interest for not longer than one year at not to exceed four per centum per annum after six days from date, convertible into farm loan bonds when presented at the Federal land bank of the district in the amount of \$25 or any multiple thereof. Such deposits, when received shall be forthwith transmitted to said land bank, and be invested by it in the purchase of farm loan bonds issued by a Federal land bank or in first mortgages as defined by this Act. (Acts July 17, 1916, c. 245, § 11, 39 Stat. 369; April 20, 1920, c. 154, § 3.)

Note.—§ 12, so referred to, is § 9320.

§ 9320. Restrictions on first mortgage loans.—No Federal land bank organized under this Act shall make loans except upon the following terms and conditions:

First. Said loans shall be secured by duly recorded first mortgages on farm land within the land bank district in which the bank is situated.

Second. Every such mortgage shall contain an agreement providing for the repayment of the loan on an amortization plan by means of a fixed number of annual or semiannual installments sufficient to cover, first, a charge on the loan at a rate not exceeding the interest rate in the last series of farm-loan bonds issued by the land bank making the loan; second, a charge for administration and profits at a rate not exceeding 1 per centum per annum on the unpaid principal, said two rates combined constituting the interest rate on the mortgage; and, third, such amounts to be applied on the principal as will extinguish the debt within an agreed period, not less than five years nor more than forty years: Provided, That after five years from the date upon which a loan is made the mortgagor may, upon any regular installment date, make, in advance, any number of payments or any portion thereof on account of the principal of his loan as provided by his contract or pay the entire principal of such loan, under the rules and regulations of the Federal Farm Loan Board: And provided further, That before the first issues of farm-loan bonds by any land bank the interest rate on mortgages may be determined in the discretion of said land bank, subject to the provisions and limitations of this Act.

Third. No loan on mortgage shall be made under this Act at a rate of interest exceeding six per centum per annum, exclusive of amortization payments.

Fourth. Such loans may be made for the following purposes and for no other:

(a) To provide for the purchase of land for agricultural uses.

(b) To provide for the purchase of equipment, fertilizers and live stock necessary for the proper and reasonable operation of the mortgaged farm; the term "equipment" to be defined by the Federal Farm Loan Board.

(c) To provide buildings and for the improvement of farm lands; the term "improvement" to be defined by the Federal Farm Loan Board.

(d) To liquidate indebtedness of the owner of the land mortgaged, incurred for agricultural purposes or incurred prior to the organization of the first Farm Loan Association established in and for the county in which the land is situated.

Fifth. No such loan shall exceed fifty per centum of the value of the land mortgaged and twenty per centum of the value of the permanent, insured improvements thereon, said value to be ascertained by appraisal,

as provided in section ten of this Act. In making said appraisal the value of the land for agricultural purposes shall be the basis of appraisal and the earning power of said land shall be a principal factor.

A reappraisal may be permitted at any time in the discretion of the Federal land bank, and such additional loan may be granted as such reappraisal will warrant under the provisions of this paragraph. Whenever the amount of the loan applied for exceeds the amount that may be loaned under the appraisal as herein limited, such loan may be granted to the amount permitted under the terms of this paragraph without requiring a new application or appraisal.

Sixth. No such loan shall be made to any person who is not at the time, or shortly to become, engaged in the cultivation of the farm mortgaged. In case of the sale of the mortgaged land, the Federal land bank may permit said mortgage and the stock interests of the vendor to be assumed by the purchaser. In case of the death of the mortgagor, his heir or heirs, or his legal representative or representatives, shall have the option, within sixty days of such death, to assume the mortgage and stock interests of the deceased.

Seventh. The amount of loans to any one borrower shall in no case exceed a maximum of \$10,000, nor shall any loan be for a less sum than \$100.

Eighth. Every applicant for a loan under the terms of this Act shall make application on a form to be prescribed for that purpose by the Federal Farm Loan Board, and such applicant shall state the objects to which the proceeds of said loan are to be applied, and shall afford such other information as may be required.

Ninth. Every borrower shall pay simple interest on defaulted payments at the rate of eight per centum per annum, and by express covenant in his mortgage deed shall undertake to pay when due all taxes, liens, judgments, or assessments which may be lawfully assessed against the land mortgaged. Taxes, liens, judgments, or assessments not paid when due, and paid by the mortgagee, shall become a part of the mortgage debt and shall bear simple interest at the rate of eight per centum per annum. Every borrower shall undertake to keep insured to the satisfaction of the Federal Farm Loan Board all buildings the value of which was a factor in determining the amount of the loan. Insurance shall be made payable to the mortgagee as its interest may appear at time of loss, and, at the option of the mortgagor and subject to general regulations of the Federal Farm Loan Board, sums so received may be used to pay for reconstruction of the buildings destroyed.

Tenth. Every borrower who shall be granted a loan under the provisions of this Act shall enter into an agreement, in form and under conditions to be prescribed by the Federal Farm Loan Board, that if the whole or any portion of his loan shall be expended for purposes other than those specified in his original application, or if the borrower shall be in default in respect to any condition or covenant of the mortgage, the whole of said loan shall, at the option of the mortgagee, become due and payable forthwith: Provided, That the borrower may use part of said loan to pay for his stock in the farm loan association, and the land bank holding such mortgage may permit said loan to be used for any purpose specified in subsection fourth of this section.

Eleventh. That no loan or the mortgage securing the same shall be impaired or invalidated by reason of the exercise of any power by any Federal land bank or national farm loan association in excess of the powers herein granted or any limitations thereon.

Funds transmitted to farm loan associations by Federal land banks to be loaned to its members shall be in current funds, or farm loan bonds, at the option of the borrower. (Acts July 17, 1916, c. 245, § 12, 39 Stat. 370; April 20, 1920, c. 154, § 4.)

Note.—§ 10, so referred to, is § 9318.

§ 9324. Joint stock land banks.—Corporations, to be known as joint stock land banks, for carrying on the business of lending on farm mortgage security and issuing farm loan bonds, may be formed by any number of natural persons not less than ten. They shall be organized subject to the requirements and under the conditions set forth in section four of this Act, so far as the same may be applicable: Provided, That the board of directors of every joint stock land bank shall consist of not less than five members.

Shareholders of every joint stock land bank organized under this Act shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts, and engagements of such bank to the extent of the amount of stock owned by them at the par value thereof, in addition to the amount paid in and represented by their shares.

Except as otherwise provided, joint stock land banks shall have the powers of, and be subject to all the restrictions and conditions imposed on, Federal land banks by this Act, so far as such restrictions and conditions are applicable: Provided, however, That the Government of the United States shall not purchase or subscribe for any of the capital stock of any such bank; and each shareholder of any such bank shall have the same voting privileges as holders of shares in national banking associations.

No joint stock land bank shall have power to issue or obligate itself for outstanding farm loan bonds in excess of fifteen times the amount of its capital and surplus, or to receive deposits or to transact any banking or other business not expressly authorized by the provisions of this Act.

No joint stock land bank shall be authorized to do business until capital stock to the amount of at least \$250,000 has been subscribed, one-half thereof paid in cash and the balance subject to call by the board of directors, and a charter has been issued to it by the Federal Farm Loan Board.

No joint stock land bank shall issue any bonds until after the capital stock is entirely paid up.

Farm loan bonds issued by joint stock land banks shall be so engraved as to be readily distinguished in form and color from farm loan bonds issued by Federal land banks, and shall otherwise bear such distinguishing marks as the Federal Farm Loan Board shall direct.

Joint stock land banks shall not be subject to the provisions of subsection (b) of section seventeen of this Act as to interest rates on mortgage loans or farm loan bonds, nor to the provisions of subsections first, fourth, sixth, seventh, and tenth of section twelve as to restrictions on mortgage loans: Provided, however, That no loans shall be made which are not secured by first mortgages on farm lands within the State in which such joint stock land bank has its principal office, or within some one State contiguous to such State. Such joint stock land banks shall be subject to all other restrictions on mortgage loans imposed on Federal land banks in section twelve of this Act.

Joint stock land banks shall in no case charge a rate of interest on farm loans exceeding by more than one per centum the rate of interest established for the last series of farm loan bonds issued by them.

Joint stock land banks shall in no case demand or receive, under any form or pretense, any commission or charge not specifically authorized in this Act.

Each joint stock land bank organized under this Act shall have authority to issue bonds based upon mortgages taken by it in accordance with the terms of this Act. Such bonds shall be in form prescribed by the Federal Farm Loan Board, and it shall be stated in such bonds that such bank is organized under section sixteen of this Act, is under Federal supervision, and operates under the provisions of this Act.

Any joint stock land bank organized and doing business under the provisions of this Act may go into voluntary liquidation by making provision, to be approved by the Federal Farm Loan Board, for the payment of its liabilities: Provided, That such method of liquidation shall have been duly authorized by a vote of at least two-thirds of the shareholders of such joint stock land bank at a regular meeting, or at a special meeting called for that purpose, of which at least ten days' notice in writing shall have been given to stockholder.

For the purpose of assisting in any such liquidation duly authorized as in the preceding paragraph provided, any Federal land bank may, with the approval of the Federal Farm Loan Board, acquire the assets and assume the liabilities of any joint stock land bank, and in such transaction may waive the provisions of this Act requiring such land bank to acquire its loans only through national farm loan associations, or agents, and those relating to status of borrower, purposes of loan, and also the limitation as to the amount of individual loans.

No Federal land bank shall assume the obligations of any joint stock land bank, in such manner as to make its outstanding obligations more

than twenty times its capital stock, except by the creation of a special reserve equal to one-twentieth of the amount of such additional obligations assumed. (Acts July 17, 1916, c. 245, § 16, 39 Stat. 374; May 29, 1920, c. 215.)

Note.—§§ 4, 12, 16, so referred to, are §§ 9312, 9320, 9324.

§ 9328. Form of farm loan bonds; delivery to banks.—Bonds provided for in this Act shall be issued in denominations of \$40, \$100, \$500, \$1,000, and such larger denominations as the Federal Farm Loan Board may authorize; they shall run for specified minimum and maximum periods, subject to payment and retirement, at the option of the land bank, at any time after five years from the date of their issue. They shall have interest coupons attached, payable semiannually, and shall be issued in series of not less than \$50,000, the amount and terms to be fixed by the Federal Farm Loan Board. They shall bear a rate of interest not to exceed 5 per centum per annum.

The Federal Farm Loan Board shall prescribe rules and regulations concerning the circumstances and manner in which farm loan bonds shall be paid and retired under the provisions of this Act.

Farm loan bonds shall be delivered through the registrar of the district to the bank applying for the same.

In order to furnish farm loan bonds for delivery at the Federal land banks and joint stock land banks, the Secretary of the Treasury is hereby authorized to prepare suitable bonds in such form, subject to the provisions of this Act, as the Federal Farm Loan Board may approve, such bonds when prepared to be held in the Treasury subject to delivery upon order of the Federal Farm Loan Board. The engraved plates, dies, bed-pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. Any expenses incurred in the preparation, custody, and delivery of such farm loan bonds shall be paid by the Secretary of the Treasury from any funds in the Treasury not otherwise appropriated: Provided, however, That the Secretary shall be reimbursed for such expenditures by the Federal Farm Loan Board through assessment upon the farm land banks in proportion to the work executed. They may be exchanged into registered bonds of any amount, and reexchanged into coupon bonds, at the option of the holder, under rules and regulations to be prescribed by the Federal Farm Loan Board. (Acts July 17, 1916, c. 245, § 20, 39 Stat. 377; April 20, 1920, c. 154, § 5.)

§ 9329. Execution of bonds; liability of land banks.—Each land bank shall be bound in all respects by the acts of its officers in signing and issuing farm loan bonds and by the acts of the Federal Farm Loan Board in authorizing their issue.

Every Federal land bank issuing farm loan bonds shall be primarily liable therefor, and shall also be liable, upon presentation of farm loan bond coupons, for interest payments due upon any farm loan bonds issued by other Federal land banks and remaining unpaid in consequence of the default of such other land banks; and every such bank shall likewise be liable for such portion of the principal of farm loan bonds so issued as shall not be paid after the assets of any such other land banks shall have been liquidated and distributed: Provided, That such losses, if any, either of interest or of principal, shall be assessed by the Federal Farm Loan Board against solvent land banks liable therefor in proportion to the amount of farm loan bonds which each may have outstanding at the time of such assessment.

Every Federal land bank shall by appropriate action of its board of directors, duly recorded in its minutes, obligate itself to become liable on farm loan bonds as provided in this section.

Every farm loan bond issued by a Federal land bank shall be signed by its president or vice president and attested by its secretary or assistant secretary. For the purpose of signing such bonds the board of directors of any Federal land bank is authorized to select a vice president who need not be a member of the board of directors; such bonds shall also contain in the face thereof a certificate signed by the Farm Loan Commissioner to the effect that it is issued under the authority of the Federal Farm Loan Act, has the approval in form and issue of the Federal Farm Loan Board, and is legal and regular in all respects; that it is not taxable by National, State, municipal, or local authority; that it is issued against

collateral security of United States Government bonds, or indorsed first mortgages on farm lands, at least equal in amount to the bonds issued; and that all Federal land banks are liable for the payment of each bond. (Acts July 17, 1916, c. 245, § 21, 39 Stat. 377; April 20, 1920, c. 154, § 6.)

§ 9340. Purchase of farm loan bonds by Secretary of Treasury.

Note.—By Res. May 26, 1920, No. 45, c. 208, the provisions of the Act of 1918 amending this section "are extended to the fiscal years ending June 30, 1920, and June 30, 1921, to the extent that the Secretary of the Treasury be, and he hereby is, authorized, as by the terms of said Act, to purchase during the fiscal years ending June 30, 1920, and June 30, 1921, or either of them, any bonds which he might have purchased during the fiscal years ending June 30, 1918, and June 30, 1919, or either of them, under the provisions of the original Act: Provided, That he shall purchase no bonds issued against loans approved after March 1, 1920."

TITLE LXXX.

HARBORS AND INLAND WATERWAYS.

CHAPTER 1.

NAVIGABLE OR PUBLIC CHARACTER OF STREAMS.

§ 9364a. **Little River in Arkansas.**—Little River, from Big Lake in Mississippi County to Marked Tree in Poinsett County, Arkansas, is hereby declared to be not a navigable waterway of the United States within the meaning of the laws enacted by Congress for the protection of such waterways. (Act March 2, 1919, c. 95, § 4.)

CHAPTER 4.

RIVER AND HARBOR IMPROVEMENTS.

§ 9463. **Necessity for Congressional authority for examinations and surveys.**—No preliminary examination, survey, project, or estimate for new works other than those designated in this or some prior Act or joint resolution shall be made: Provided further, That after the regular or formal reports made as required by law on any examination, survey, project, or work under way or proposed are submitted no supplemental or additional report or estimate shall be made unless ordered by a concurrent resolution of Congress: And provided further, That the Government shall not be deemed to have entered upon any project for the improvement of any waterway or harbor mentioned in this Act until funds for the commencement of the proposed work shall have been actually appropriated by law. (Acts July 27, 1916, c. 260, § 2, 39 Stat. 406; Aug. 8, 1917, c. 49, § 4, 40 Stat. 261; March 2, 1919, c. 95, § 6.)

§ 9465a. **Contents of report of survey.**—Every report submitted to Congress in pursuance of this section or of any provision of law for a survey hereafter enacted, in addition to other information which the Congress has heretofore directed shall be given, shall contain a statement of special or local benefit which will accrue to localities affected by such improvement and a statement of general or national benefits, with recommendations as to what local cooperation should be required, if any, on account of such special or local benefit. (Act June 5, 1920, c. 252, § 2.)

§ 9477. **Economical application of appropriations; advertisement for and award of contracts (last paragraph).**—No part of the funds herein or hereafter appropriated for works of river and harbor improvement shall be used to pay for any work done by private contract if the contract price is more than 25 per centum in excess of the estimated cost of doing the work by Government plant: Provided That in estimating the cost of doing the work by Government plant, including the cost of labor and materials, there shall also be taken into account proper charges for depreciation of plant and all supervising and overhead expenses and interest on the capital invested in the Government plant, but the rate of interest shall not exceed the maximum prevailing rate being paid by the United States on current

issues of bonds or other evidences of indebtedness. (Acts July 18, 1918, c. 155, § 4; March 2, 1919, c. 95, § 8.)

§ 9478. How appropriations apportioned where works consolidated.

Note 1.—By Act March 2, 1919, c. 95, § 2, which is apparently limited to the projects therein authorized, it is provided that "where separate works or items are consolidated herein and an aggregate amount is appropriated therefor, the amount so appropriated shall, unless otherwise expressed, be expended in securing the maintenance and improvement according to the respective projects adopted by Congress after giving due regard to the respective needs of traffic. The allotments to the respective works so consolidated shall be made by the Chief of Engineers as authorized by the Secretary of War. In case such works or items are consolidated and separate amounts are given to individual projects the amounts so named shall be expended upon such separate projects. Any balances remaining to the credit of the consolidated items shall be carried to the credit of the respective aggregate amounts appropriated for the consolidated items."

Note 2.—Rivers and harbors appropriation Act March 2, 1919, c. 95, § 1, provides that "no work shall be undertaken upon any new project herein adopted unless the Secretary of War shall be of the opinion that, based upon the cost at the time of entering upon the work, the project can be completed at a cost not greater than 40 per centum in excess of the estimate of cost in the report upon such project."

§ 9481. Contracts for dredging.—In all cases where the project for a work of river or harbor improvement, heretofore, herein, or hereafter authorized, provides for the construction or use of Government dredging plant, the Secretary of War may, in his discretion, have the work done by contract if reasonable prices can be obtained. (Acts Aug. 8, 1917, c. 49, § 3, 40 Stat. 261; March 2, 1919, c. 95, § 3.)

§ 9484a. City water terminals.—It is hereby declared to be the policy of the Congress that water terminals are essential at all cities and towns located upon harbors or navigable waterways and that at least one public terminal should exist, constructed, owned, and regulated by the municipality, or other public agency of the State and open to the use of all on equal terms, and with the view of carrying out this policy to the fullest possible extent the Secretary of War is hereby vested with the discretion to withhold, unless the public interests would seriously suffer by delay, moneys appropriated in this Act for new projects adopted herein, or for the further improvement of existing projects if, in his opinion, no water terminals exist adequate for the traffic and open to all on equal terms, or unless satisfactory assurances are received that local or other interests will provide such adequate terminal or terminals. The Secretary of War, through the Chief of Engineers, shall give full publicity, as far as may be practicable, to this provision. (Act March 2, 1919, c. 95, § 1.)

§ 9485. Injuries by collisions during work of improvement.—Whenever any vessel belonging to or employed by the United States engaged upon river and harbor works collides with and damages another vessel, pier, or other legal structure belonging to any person or corporation, and whenever, in the prosecution of river and harbor works, an accident occurs damaging or destroying property belonging to any person or corporation, and whenever personal property of employees of the United States, who are employed on or in connection with river and harbor works, is damaged or destroyed in connection with the loss, threatened loss, or damage to United States property, or through efforts to save life or to preserve United States property, the Chief of Engineers shall cause an immediate examination to be made, and if, in his judgment, the facts and circumstances are such as to make the whole or any part of the damages or destruction a proper charge against the United States, the Chief of Engineers, subject to the approval of the Secretary of War, shall have authority to adjust and settle all claims for damages or destruction caused by the above designated collisions, accidents, and so forth, in cases where the damage or expense does not exceed \$500, and pay the same from the appropriation directly involved, and to report such as exceed \$500 to Congress for its consideration. (Acts June 25, 1910, c. 382, § 4, 36 Stat. 676; June 5, 1920, c. 250, § 9.)

§ 9530a. Investigation concerning improvement of Saint Lawrence River.—The International Joint Commission created by the treaty between the United States and Great Britain relating to boundary waters between the United States and Canada, signed at Washington January 11, 1909, under

the provisions of article 9 of said treaty, is requested to investigate what further improvement of the Saint Lawrence River between Montreal and Lake Ontario is necessary to make the same navigable for ocean-going vessels, together with the estimated cost thereof, and report to the Government of the Dominion of Canada and to the Congress of the United States, with its recommendations for cooperation by the United States with the Dominion of Canada in the improvement of said river. (Act March 2, 1919, c. 95, § 9.)

§ 9530b. Adjustment of war-time contracts.—The Secretary of War is hereby authorized to ascertain whether any of the contracts for work on river and harbor improvements entered into but not completed prior to April 6, 1917, the date of the entrance of the United States into war with Germany, have become inequitable and unjust on account of increased cost of materials, labor, and other unforeseen conditions arising out of the war; and to ascertain and report what amounts, if any, in addition to those fixed by the terms of said contracts, should in justice and equity be paid to contractors, for work performed between April 6, 1917, and July 18, 1918, the date of the approval of an Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," on account of the increased cost of labor and materials and other unforeseen conditions arising out of the war during that period: Provided, That in every case the amount so ascertained shall not exceed the actual loss sustained by the contractor in performing the work between the said dates: Provided further, That when such amount shall have been ascertained, the Secretary of War shall transmit to Congress for consideration a statement or statements of all findings or determinations rendered by authority of this section, the amounts thereof, the names of contractors, and dates of contracts. (Act March 2, 1919, c. 95, § 10.)

§ 9530c. Time for relief under preceding section.—The time within which applications for relief under the provisions of section 10 of the River and Harbor Act approved March 2, 1919, may be filed by contractors with the Secretary of War, or with district engineers, or other contracting officials of the Engineer Department, is hereby limited to six months after the date of the approval of this Act. (Act June 5, 1920, c. 252, § 5.)

§ 9530d. Use of war equipment in works of improvement.—The Secretary of War be, and he is hereby, authorized and empowered, in his discretion, to transfer, free of charge, to the Chief of Engineers, United States Army, for use in the execution, under his direction, of any civil work or works authorized by Congress, such material, supplies, instruments, vehicles, machinery, or other equipment pertaining to the Military Establishment as are or may hereafter be found to be surplus and no longer required for military purposes. (Act June 5, 1920, c. 252, § 8.)

§ 9531. Repealed by Act June 10, 1920, c. 285, § 29.

CHAPTER 5.

DEVELOPMENT OF WATER POWER.

§ 9531a. Creation of Federal Power Commission.—A Commission is hereby created and established, to be known as the Federal Power Commission (hereinafter referred to as the commission), which shall be composed of the Secretary of War, the Secretary of the Interior, and the Secretary of Agriculture. Two members of the commission shall constitute a quorum for the transaction of business, and the commission shall have an official seal, which shall be judicially noticed. The President shall designate the chairman of the commission. (Act June 10, 1920, c. 285, § 1.)

§ 9531b. Employees and expenses of commission.—The commission shall appoint an executive secretary, who shall receive a salary of \$5,000 a year, and prescribe his duties, and the commission may request the President of the United States to detail an officer from the United States Engineer Corps to serve the commission as engineer officer, his duties to be prescribed by the commission.

The work of the commission shall be performed by and through the Departments of War, Interior, and Agriculture and their engineering, technical, clerical, and other personnel except as may be otherwise provided by law.

All the expenses of the commission, including rent in the District of Columbia, all necessary expenses for transportation and subsistence, including, in the discretion of the commission, a per diem of not exceeding \$4 in lieu of subsistence incurred by its employees under its orders in making any investigation, or conducting field work, or upon official business outside of the District of Columbia and away from their designated points of duty, shall be allowed and paid on the presentation of itemized vouchers therefor approved by a member or officer of the commission duly authorized for that purpose; and in order to defray the expenses made necessary by the provisions of this Act there is hereby authorized to be appropriated such sums as Congress may hereafter determine, and the sum of \$100,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, available until expended, to be paid out upon warrants drawn on the Secretary of the Treasury upon order of the commission. (Act June 10, 1920, c. 285, § 2.)

§ 9531c. Definitions in water power Act.—The words defined in this section shall have the following meanings for the purposes of this Act, to wit:

“Public lands” means such lands and interest in lands owned by the United States as are subject to private appropriation and disposal under public-land laws. It shall not include “reservations,” as hereinafter defined.

“Reservations” means national monuments, national parks, national forests, tribal lands embraced within Indian reservations, military reservations, and other lands and interests in lands owned by the United States, and withdrawn, reserved, or withheld from private appropriation and disposal under the public-land laws; also lands and interests in lands acquired and held for any public purpose.

“Corporation” means a corporation organized under the laws of any State or of the United States empowered to develop, transmit, distribute, sell, lease, or utilize power in addition to such other powers as it may possess, and authorized to transact in the State or States in which its project is located all business necessary to effect the purposes of a license under this Act. It shall not include “municipalities” as hereinafter defined.

“State” means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States.

“Municipality” means a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power.

“Navigable waters” means those parts of streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, and which either in their natural or improved condition, notwithstanding interruptions between the navigable parts of such streams or waters by falls, shallows, or rapids compelling land carriage, are used or suitable for use for the transportation of persons or property in interstate or foreign commerce, including therein all such interrupting falls, shallows, or rapids; together with such other parts of streams as shall have been authorized by Congress for improvement by the United States or shall have been recommended to Congress for such improvement after investigation under its authority.

“Municipal purposes” means and includes all purposes within municipal powers as defined by the constitution or laws of the State or by the charter of the municipality.

“Government dam” means a dam or other work, constructed or owned by the United States for Government purposes, with or without contribution from others.

“Project” means complete unit of improvement or development, consisting of a power house, all water conduits, all dams and appurtenant works and structures (including navigation structures) which are a part of said unit, and all storage, diverting, or forebay reservoirs directly connected therewith, the primary line or lines transmitting power therefrom to the point of junction with the distribution system or with the interconnected

primary transmission system, all miscellaneous structures used and useful in connection with said unit or any part thereof, and all water rights, rights of way, ditches, dams, reservoirs, lands, or interests in lands, the use and occupancy of which are necessary or appropriate in the maintenance and operation of such unit.

"Project works" means the physical structures of a project.

"Net investment" in a project means the actual legitimate original cost thereof as defined and interpreted in the "classification of investment in road and equipment of steam roads, issue of 1914, Interstate Commerce Commission," plus similar costs of additions thereto and betterments thereof, minus the sum of the following items properly allocated thereto, if and to the extent that such items have been accumulated during the period of the license from earnings in excess of a fair return on such investment:

(a) Unappropriated surplus, (b) aggregate credit balances of current depreciation accounts, and (c) aggregate appropriations of surplus or income held in amortization, sinking fund, or similar reserves, or expended for additions or betterments or used for the purposes for which such reserves were created. The term "cost" shall include, in so far as applicable, the elements thereof prescribed in said classification, but shall not include expenditures from funds obtained through donations by States, municipalities, individuals, or others, and said classification of investment of the Interstate Commerce Commission shall in so far as applicable be published and promulgated as a part of the rules and regulations of the commission. (Act June 10, 1920, c. 285, § 3.)

§ 9531d. Functions and powers of commission.—The commission is hereby authorized and empowered—

(a) To make investigations and to collect and record data concerning the utilization of the water resources of any region to be developed, the water power industry and its relation to other industries and to interstate or foreign commerce, and concerning the location, capacity, development costs, and relation to markets of power sites, and whether the power from Government dams can be advantageously used by the United States for its public purposes, and what is a fair value of such power, to the extent the commission may deem necessary or useful for the purposes of this Act.

In order to aid the commission in determining the net investment of a licensee in any project, the licensee shall, upon oath, within a reasonable period of time, to be fixed by the commission, after the construction of the original project or any addition thereto or betterment thereof, file with the commission, in such detail as the commission may require, a statement in duplicate showing the actual legitimate cost of construction of such project, addition, or betterment, and the price paid for water rights, rights of way, lands, or interest in lands. The commission shall deposit one of said statements with the Secretary of the Treasury. The licensee shall grant to the commission or to its duly authorized agent or agents, at all reasonable times, free access to such project, addition, or betterment, and to all maps, profiles, contracts, reports of engineers, accounts, books, records, and all other papers and documents relating thereto.

(b) To cooperate with the executive departments and other agencies of State or National Governments in such investigations; and for such purpose the several departments and agencies of the National Government are authorized and directed upon the request of the commission, to furnish such records, papers, and information in their possession as may be requested by the commission, and temporarily to detail to the commission such officers or experts as may be necessary in such investigations.

(c) To make public from time to time the information secured hereunder, and to provide for the publication of its reports and investigations in such form and manner as may be best adapted for public information and use. The commission, on or before the first Monday in December of each year, shall submit to Congress for the fiscal year preceding a classified report showing the permits and licenses issued under this Act, and in each case the parties thereto, the terms prescribed, and the moneys received, if any, on account thereof.

(d) To issue licenses to citizens of the United States, or to any association of such citizens, or to any corporation organized under the laws of the United States or any State thereof, or to any State, or municipality for

the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation, and for the development, transmission, and utilization of power across, along, from or in any of the navigable waters of the United States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam, except as herein provided: Provided, That licenses shall be issued within any reservation only after a finding by the commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired, and shall be subject to and contain such conditions as the Secretary of the department under whose supervisions such reservation falls shall deem necessary for the adequate protection and utilization of such reservation: Provided further, That no license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting navigation have been approved by the Chief of Engineers and the Secretary of War. Whenever the contemplated improvement is, in the judgment of the commission, desirable and justified in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, a finding to that effect shall be made by the commission and shall become a part of the records of the commission: Provided further, That in case the commission shall find that any Government dam may be advantageously used by the United States for public purposes in addition to navigation, no license therefor shall be issued until two years after it shall have reported to Congress the facts and conditions relating thereto, except that this provision shall not apply to any Government dam constructed prior to the passage of this Act: And provided further, That upon the filing of any application for a license which has not been preceded by a preliminary permit under subsection (e) of this section, notice shall be given and published as required by the proviso of said subsection.

(e) To issue preliminary permits for the purpose of enabling applicants for a license hereunder to secure the data and to perform the acts required by section 9 hereof: Provided, however, That upon the filing of any application for a preliminary permit by any person, association, or corporation the commission, before granting such application, shall at once give notice of such application in writing to any State or municipality likely to be interested in or affected by such application; and shall also publish notice of such application for eight weeks in a daily or weekly newspaper published in the county or counties in which the project or any part thereof or the lands affected thereby are situated.

(f) To prescribe rules and regulations for the establishment of a system of accounts and for the maintenance thereof by licensees hereunder; to examine all books and accounts of such licensees at any time; to require them to submit at such time or times as the commission may require statements and reports, including full information as to assets and liabilities, capitalization, net investment and reduction thereof, gross receipts, interest due and paid, depreciation and other reserves, cost of project, cost of maintenance and operation of the project, cost of renewals and replacements of the project works, and as to depreciation of the project works and as to production, transmission, use and sale of power; also to require any licensee to make adequate provision for currently determining said costs and other facts. All such statements and reports shall be made upon oath, unless otherwise specified, and in such form and on such blanks as the commission may require. Any person who, for the purpose of deceiving, makes or causes to be made any false entry in the books or the accounts of such licensee, and any person who, for the purpose of deceiving, makes or causes to be made any false statement or report in response to a request or order or direction from the commission for the statements and report herein referred to shall, upon conviction, be fined not more than \$2,000 or imprisoned not more than five years, or both.

(g) To hold hearings and to order testimony to be taken by deposition at any designated place in connection with the application for any permit or license, or the regulation of rates, service, or securities, or the making of any investigation, as provided in this Act; and to require by subpoena,

signed by any member of the commission, the attendance and testimony of witnesses and the production of documentary evidence from any place in the United States, and in case of disobedience to a subpoena the commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any member, expert, or examiner of the commission may, when duly designated by the commission for such purposes, administer oaths and affirmations, examine witnesses and receive evidence. Depositions may be taken before any person designated by the commission or by its executive secretary and empowered to administer oaths, shall be reduced to writing by such person or under his direction, and subscribed by the deponent. Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(h) To perform any and all acts, to make such rules and regulations, and to issue such orders not inconsistent with this Act as may be necessary and proper for the purpose of carrying out the provisions of this Act. (Act June 10, 1920, c. 285, § 4.)

Note.—§ 9 is now § 95311.

§ 9531e. Preliminary permits.—Each preliminary permit issued under this Act shall be for the sole purpose of maintaining priority of application for a license under the terms of this Act for such period or periods, not exceeding a total of three years, as in the discretion of the commission may be necessary for making examinations and surveys, for preparing maps, plans, specifications, and estimates, and for making financial arrangements. Each such permit shall set forth the conditions under which priority shall be maintained and a license issued. Such permits shall not be transferable, and may be canceled by order of the commission upon failure of permittees to comply with the conditions thereof. (Act June 10, 1920, c. 285, § 5.)

§ 9531f. Licenses.—Licenses under this Act shall be issued for a period not exceeding fifty years. Each such license shall be conditioned upon acceptance by the licensee of all the terms and conditions of this Act and such further conditions, if any, as the commission shall prescribe in conformity with this Act, which said terms and conditions and the acceptance thereof shall be expressed in said license. Licenses may be revoked only for the reasons and in the manner prescribed under the provisions of this Act, and may be altered or surrendered only upon mutual agreement between the licensee and the commission after ninety days' public notice. (Act June 10, 1920, c. 285, § 6.)

§ 9531g. Projects by state, city, or nation.—In issuing preliminary permits hereunder or licenses where no preliminary permit has been issued and in issuing licenses to new licensees under section 15 hereof the commission shall give preference to applications therefor by States and municipalities, provided the plans for the same are deemed by the commission equally well adapted, or shall within a reasonable time to be fixed by the commission be made equally well adapted, to conserve and utilize in the public interest the navigation and water resources of the region; and as between other applicants, the commission may give preference to the applicant the plans of which it finds and determines are best adapted to develop, conserve, and utilize in the public interest the navigation and water resources of the region, if it be satisfied as to the ability of the applicant to carry out such plans.

Whenever, in the judgment of the commission, the development of any project should be undertaken by the United States itself, the commission shall not approve any application for such project by any citizen, association, corporation, State, or municipality, but shall cause to be made such examinations, surveys, reports, plans, and estimates of the cost of the project as it may deem necessary, and shall submit its findings to Congress with such recommendations as it may deem appropriate concerning the construction of such project or completion of any project upon any Government dam by the United States. (Act June 10, 1920, c. 285, § 7.)

Note.—§ 15 is now § 9531o.

§ 9531h. Transfer or sale of license.—No voluntary transfer of any license, or of the rights thereunder granted, shall be made without the written approval of the commission; and any successor or assign of the rights of such licensee, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the conditions of the license under which such rights are held by such licensee and also subject to all the provisions and conditions of this Act to the same extent as though such successor or assign were the original licensee hereunder: Provided, That a mortgage or trust deed or judicial sales made thereunder or under tax sales shall not be deemed voluntary transfers within the meaning of this section. (Act June 10, 1920, c. 285, § 8.)

§ 9531i. Plans and estimates; State laws.—Each applicant for a license hereunder shall submit to the commission—

(a) Such maps, plans, specifications, and estimates of cost as may be required for a full understanding of the proposed project. Such maps, plans, and specifications when approved by the commission shall be made a part of the license; and thereafter no change shall be made in said maps, plans, or specifications until such changes shall have been approved and made a part of such license by the commission.

(b) Satisfactory evidence that the applicant has complied with the requirements of the laws of the State or States within which the proposed project is to be located with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes and with respect to the right to engage in the business of developing, transmitting, and distributing power, and in any other business necessary to effect the purposes of a license under this Act.

(c) Such additional information as the commission may require. (Act June 10, 1920, c. 285, § 9.)

§ 9531j. Conditions of licenses.—All licenses issued under this Act shall be on the following conditions:

(a) That the project adopted, including the maps, plans, and specifications, shall be such as in the judgment of the commission will be best adapted to a comprehensive scheme of improvement and utilization for the purposes of navigation, of water-power development, and of other beneficial public uses; and if necessary in order to secure such scheme the commission shall have authority to require the modification of any project and of the plans and specifications of the project works before approval.

(b) That except when emergency shall require for the protection of navigation, life, health, or property, no substantial alteration or addition not in conformity with the approved plans shall be made to any dam or other project works constructed hereunder of a capacity in excess of one hundred horsepower without the prior approval of the commission; and any emergency alteration or addition so made shall thereafter be subject to such modification and change as the commission may direct.

(c) That the licensee shall maintain the project works in a condition of repair adequate for the purposes of navigation and for the efficient operation of said works in the development and transmission of power, shall make all necessary renewals and replacements, shall establish and maintain adequate depreciation reserves for such purposes, shall so maintain and operate said works as not to impair navigation, and shall conform to such rules and regulations as the commission may from time to time prescribe for the protection of life, health, and property. Each licensee hereunder shall be liable for all damages occasioned to the property of others by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto, constructed under the license, and in no event shall the United States be liable therefor.

(d) That after the first twenty years of operation out of surplus earned thereafter, if any, accumulated in excess of a specified reasonable rate of return upon the actual, legitimate investment of a licensee in any project or projects under license the licensee shall establish and maintain amortization reserves, which reserves shall, in the discretion of the commission be held until the termination of the license or be applied from time to time in reduction of the net investment. Such specified rate of

return and the proportion of such surplus earnings to be paid into and held in such reserves shall be set forth in the license.

(e) That the licensee shall pay to the United States reasonable annual charges in an amount to be fixed by the commission for the purpose of reimbursing the United States for the costs of the administration of this Act; for recompensing it for the use, occupancy, and enjoyment of its lands or other property; and for the expropriation to the Government of excessive profits until the respective States shall make provisions for preventing excessive profits or for the expropriation thereof to themselves, or until the period of amortization as herein provided is reached, and in fixing such charges the commission shall seek to avoid increasing the price to the consumers of power by such charges, and charges for the expropriation of excessive profits may be adjusted from time to time by the commission as conditions may require: Provided, That when licenses are issued involving the use of Government dams or other structures owned by the United States or tribal lands embraced within Indian reservations the commission shall fix a reasonable annual charge for the use thereof, and such charges may be readjusted at the end of twenty years after the beginning of operations and at periods of not less than ten years thereafter in a manner to be described in each license: Provided, That licenses for the development, transmission, or distribution of power by States or municipalities shall be issued and enjoyed without charge to the extent such power is sold to the public without profit or is used by such State or municipality for State or municipal purposes, except that as to projects constructed or to be constructed by States or municipalities primarily designed to provide or improve navigation licenses therefor shall be issued without charge; and that licenses for the development, transmission, or distribution of power for domestic, mining, or other beneficial use in projects of not more than one hundred horsepower capacity may be issued without charge, except on tribal lands within Indian reservations; but in no case shall a license be issued free of charge for the development and utilization of power created by any Government dam and that the amount charged therefor in any license shall be such as determined by the commission.

(f) That whenever any licensee hereunder is directly benefited by the construction work of another licensee, a permittee, or of the United States of a storage reservoir or other headwater improvement, the commission shall require as a condition of the license that the licensee so benefited shall reimburse the owner of such reservoir or other improvements for such part of the annual charges for interest, maintenance, and depreciation thereon as the commission may deem equitable. The proportion of such charges to be paid by any licensee shall be determined by the commission.

Whenever such reservoir or other improvement is constructed by the United States the commission shall assess similar charges against any licensee directly benefited thereby, and any amount so assessed shall be paid into the Treasury of the United States, to be reserved and appropriated as a part of the special fund for headwater improvements as provided in section 17 hereof.

(g) Such other conditions not inconsistent with the provisions of this Act as the commission may require.

(h) That combinations, agreements, arrangement, or understandings, express or implied, to limit the output of electrical energy, to restrain trade, or to fix, maintain, or increase prices for electrical energy or service are hereby prohibited.

(i) In issuing licenses for a minor part only of a complete project, or for a complete project of not more than one hundred horsepower capacity, the commission may in its discretion waive such conditions, provisions, and requirements of this Act, except the license period of fifty years, as it may deem to be to the public interest to waive under the circumstances: Provided, That the provisions hereof shall not apply to lands within Indian reservations. (Act June 10, 1920, c. 285, § 10.)

Note.—§ 17 is now § 9531g.

§ 9531k. Navigation facilities.—If the dam or other project works are to be constructed across, along, or in any of the navigable waters of the United States, the commission may, in so far as it deems the same reason-

ably necessary to promote the present and future needs of navigation and consistent with a reasonable investment cost to the licensee, include in the license any one or more of the following provisions or requirements:

(a) That such licensee shall, to the extent necessary to preserve and improve navigation facilities, construct, in whole or in part, without expense to the United States, in connection with such dam, a lock or locks, booms, sluices, or other structures for navigation purposes, in accordance with plans and specifications approved by the Chief of Engineers and the Secretary of War and made part of such license.

(b) That in case such structures for navigation purposes are not made a part of the original construction at the expense of the licensee, then whenever the United States shall desire to complete such navigation facilities the licensee shall convey to the United States, free of cost, such of its land and its rights of way and such right of passage through its dams or other structures, and permit such control of pools as may be required to complete such navigation facilities.

(c) That such licensee shall furnish free of cost to the United States power for the operation of such navigation facilities, whether constructed by the licensee or by the United States. (Act June 10, 1920, c. 285, § 11.)

§ 9531l. Federal payment for navigation structures.—Whenever application is filed for a project hereunder involving navigable waters of the United States, and the commission shall find upon investigation that the needs of navigation require the construction of a lock or locks or other navigation structures, and that such structures can not, consistent with a reasonable investment cost to the applicant, be provided in the manner specified in section 11, subsection (a) thereof, the commission may grant the application with the provision to be expressed in the license that the licensee will install the necessary navigation structures if the Government fails to make provision therefor within a time to be fixed in the license and cause a report upon such project to be prepared, with estimates of cost of the power development and of the navigation structures, and shall submit such report to Congress with such recommendations as it deems appropriate concerning the participation of the United States in the cost of construction of such navigation structures. (Act June 10, 1920, c. 285, § 12.)

Note.—§ 11 is now § 9531k.

§ 9531m. Construction of project works.—The licensee shall commence the construction of the project works within the time fixed in the license, which shall not be more than two years from the date thereof, shall thereafter in good faith and with due diligence prosecute such construction, and shall within the time fixed in the license complete and put into operation such part of the ultimate development as the commission shall deem necessary to supply the reasonable needs of the then available market, and shall from time to time thereafter construct such portion of the balance of such development as the commission may direct, so as to supply adequately the reasonable market demands until such development shall have been completed. The periods for the commencement of construction may be extended once but not longer than two additional years and the period for the completion of construction carried on in good faith and with reasonable diligence may be extended by the commission when not incompatible with the public interests. In case the licensee shall not commence actual construction of the project works, or of any specified part thereof, within the time prescribed in the license or as extended by the commission, then, after due notice given, the license shall, as to such project works or part thereof, be terminated upon written order of the commission. In case the construction of the project works, or of any specified part thereof, have been begun but not completed within the time prescribed in the license, or as extended by the commission, then the Attorney General, upon the request of the commission, shall institute proceedings in equity in the district court of the United States for the district in which any part of the project is situated for the revocation of said license, the sale of the works constructed, and such other equitable relief as the case may demand, as provided for in section 26 hereof. (Act June 10, 1920, c. 285, § 13.)

Note.—§ 26 is now § 9531xx.

§ 9531n. Taking over and operation of project by nation, State or city.—Upon not less than two years' notice in writing from the commission the United States shall have the right upon or after the expiration of any license to take over and thereafter to maintain and operate any project or projects as defined in section 3 hereof, and covered in whole or in part by the license, or the right to take over upon mutual agreement with the licensee all property owned and held by the licensee then valuable and serviceable in the development, transmission, or distribution of power and which is then dependent for its usefulness upon the continuance of the license, together with any lock or locks or other aids to navigation constructed at the expense of the licensee, upon the condition that before taking possession it shall pay the net investment of the licensee in the project or projects taken, not to exceed the fair value of the property taken, plus such reasonable damages, if any, to property of the licensee valuable, serviceable, and dependent as above set forth but not taken, as may be caused by the severance therefrom of property taken, and shall assume all contracts entered into by the licensee with the approval of the commission. The net investment of the licensee in the project or projects so taken and the amount of such severance damages, if any, shall be determined by agreement between the commission and the licensee, and in case they can not agree, by proceedings in equity instituted by the United States in the district court of the United States in the district within which any such property may be located: Provided, That such net investment shall not include or be affected by the value of any lands, rights of way, or other property of the United States licensed by the commission under this Act, by the license, or by good will, going value, or prospective revenues: Provided further, That the values allowed for water rights, rights of way, lands, or interests in lands shall not be in excess of the actual reasonable cost thereof at the time of acquisition by the licensee: Provided, That the right of the United States or any State or municipality to take over, maintain, and operate any project licensed under this Act at any time by condemnation proceedings upon payment of just compensation is hereby expressly reserved. (Act June 10, 1920, c. 285, § 14.)

Note.—§ 3 is now § 9531c.

§ 9531o. New or annual license.—If the United States does not, at the expiration of the original license, exercise its right to take over, maintain, and operate any project or projects of the licensee, as provided in section 14 hereof, the commission is authorized to issue a new license to the original licensee upon such terms and conditions as may be authorized or required under the then existing laws and regulations, or to issue a new license under said terms and conditions to a new licensee, which license may cover any project or projects covered by the original license, and shall be issued on the condition that the new licensee shall, before taking possession of such project or projects, pay such amount, and assume such contracts as the United States is required to do, in the manner specified in section 14 hereof: Provided, That in the event the United States does not exercise the right to take over or does not issue a license to a new licensee, or issue a new license to the original licensee, upon reasonable terms, then the commission shall issue from year to year an annual license to the then licensee under the terms and conditions of the original license until the property is taken over or a new license is issued as aforesaid. (Act June 10, 1920, c. 285, § 15.)

Note.—§ 14 is now § 9531n.

§ 9531p. Federal emergency control of projects.—When in the opinion of the President of the United States, evidenced by a written order addressed to the holder of any license hereunder, the safety of the United States demands it, the United States shall have the right to enter upon and take possession of any project, or part thereof, constructed, maintained, or operated under said license, for the purpose of manufacturing nitrates, explosives, or munitions of war, or for any other purpose involving the safety of the United States, to retain possession, management, and control thereof for such length of time as may appear to the President to be necessary to accomplish said purposes, and then to restore possession and control to the party or parties entitled thereto; and in the event that the

United States shall exercise such right it shall pay to the party or parties entitled thereto just and fair compensation for the use of said property as may be fixed by the commission upon the basis of a reasonable profit in time of peace, and the cost of restoring said property to as good condition as existed at the time of the taking over thereof, less the reasonable value of any improvements that may be made thereto by the United States and which are valuable and serviceable to the licensee. (Act June 10, 1920, c. 285, § 16.)

§ 9531q. Disposition of proceeds from licenses.—All proceeds from any Indian reservation shall be placed to the credit of the Indians of such reservation. All other charges arising from licenses hereunder shall be paid into the Treasury of the United States, subject to the following distribution: Twelve and one-half per centum thereof is hereby appropriated to be paid into the Treasury of the United States and credited to "Miscellaneous receipts"; 50 per centum of the charges arising from licenses hereunder for the occupancy and use of public lands, national monuments, national forests, and national parks shall be paid into, reserved, and appropriated as a part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902; and 37½ per centum of the charges arising from licenses hereunder for the occupancy and use of national forests, national parks, public lands, and national monuments, from development within the boundaries of any State shall be paid by the Secretary of the Treasury to such State; and 50 per centum of the charges arising from all other licenses hereunder is hereby reserved and appropriated as a special fund in the Treasury to be expended under the direction of the Secretary of War in the maintenance and operation of dams and other navigation structures owned by the United States or in the construction, maintenance, or operation of headwater or other improvements of navigable waters of the United States. (Act June 10, 1920, c. 285, § 17.)

§ 9531r. Navigation regulations.—The operation of any navigation facilities which may be constructed as a part of or in connection with any dam or diversion structure built under the provisions of this Act, whether at the expense of a licensee hereunder or of the United States, shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by such dam or diversion structure as may be made from time to time by the Secretary of War. Such rules and regulations may include the maintenance and operation by such licensee at its own expense of such lights and signals as may be directed by the Secretary of War, and such fishways as may be prescribed by the Secretary of Commerce; and for willful failure to comply with any such rule or regulation such licensee shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 25 hereof. (Act June 10, 1920, c. 285, § 18.)

Note.—§ 25 is now § 9531x.

§ 9531s. Service and rate regulations.—As a condition of the license, every licensee hereunder which is a public-service corporation, or a person, association, or corporation owning or operating any project and developing, transmitting, or distributing power for sale or use in public service, shall abide by such reasonable regulation of the services to be rendered to customers or consumers of power, and of rates and charges of payment therefor, as may from time to time be prescribed by any duly constituted agency of the State in which the service is rendered or the rate charged. That in case of the development, transmission, or distribution, or use in public service of power by any licensee hereunder or by its customer engaged in public service within a State which has not authorized and empowered a commission or other agency or agencies within said State to regulate and control the services to be rendered by such licensee or by its customers engaged in public service, or the rates and charges of payment therefor, or the amount or character of securities to be issued by any of said parties, it is agreed as a condition of such license that jurisdiction is hereby conferred upon the commission, upon complaint of any person aggrieved or upon its own initiative, to exercise such regulation and control until such time as the State shall have provided a commission

or other authority for such regulation and control: Provided, That the jurisdiction of the commission shall cease and determinè as to each specific matter of regulation and control prescribed in this section as soon as the State shall have provided a commission or other authority for the regulation and control of that specific matter. (Act June 10, 1920, c. 285, § 19.)

§ 9531t. Control of rates, services, practices and securities by commission; procedure; valuation of property.—When said power or any part thereof shall enter into interstate or foreign commerce the rates charged and the service rendered by any such licensee, or by any subsidiary corporation, the stock of which is owned or controlled directly or indirectly by such licensee, or by any person, corporation, or association purchasing power from such licensee for sale and distribution or use in public service shall be reasonable, nondiscriminatory, and just to the customer and all, unreasonable discriminatory and unjust rates or services are hereby prohibited and declared to be unlawful; and whenever any of the States directly concerned has not provided a commission or other authority to enforce the requirements of this section within such State or to regulate and control the amount and character of securities to be issued by any of such parties or such States are unable to agree through their properly constituted authorities on the services to be rendered or on the rates or charges of payment therefor, or on the amount or character of securities to be issued by any of said parties, jurisdiction is hereby conferred upon the commission, upon complaint of any person aggrieved, upon the request of any State concerned, or upon its own initiative to enforce the provisions of this section, to regulate and control so much of the services rendered, and of the rates and charges of payment therefor as constitute interstate or foreign commerce and to regulate the issuance of securities by the parties included within this section, and securities issued by the licensee subject to such regulations shall be allowed only for the bona fide purpose of financing and conducting the business of such licensee.

The administration of the provisions of this section, so far as applicable, shall be according to the procedure and practice in fixing and regulating the rates, charges, and practices of railroad companies as provided in the Act to regulate commerce, approved February 4, 1887, as amended, and that the parties subject to such regulation shall have the same rights of hearing, defense, and review as said companies in such cases.

In any valuation of the property of any licensee hereunder for purposes of rate making, no value shall be claimed by the licensee or allowed by the commission for any project or projects under license in excess of the value or values prescribed in section 14 hereof for the purposes of purchase by the United States, but there shall be included the cost to such licensee of the construction of the lock or locks or other aids of navigation and all other capital expenditures required by the United States, and no value shall be claimed or allowed for the rights granted by the commission or by this Act. (Act June 10, 1920, c. 285, § 20.)

Note.—§ 14 is now § 9531n.

§ 9531u. Condemnation by licensee.—When any licensee can not acquire by contract or pledges an unimproved dam site or the right to use or damage the lands or property of others necessary to the construction, maintenance, or operation of any dam, reservoir, diversion structure, or the works appurtenant or accessory thereto, in conjunction with an improvement which in the judgment of the commission is desirable and justified in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, it may acquire the same by the exercise of the right of eminent domain in the district court of the United States for the district in which such land or other property may be located, or in the State courts. The practice and procedure in any action or proceeding for that purpose in the district court of the United States shall conform as nearly as may be with the practice and procedure in similar action or proceeding in the courts of the State where the property is situated: Provided, That United States district courts shall only have jurisdiction of cases when the amount claimed by the owner of the property to be condemned exceeds \$3,000. (Act June 10, 1920, c. 285, § 21.)

§ 9531v. Contracts for power extending beyond license period.—Whenever the public interest requires or justifies the execution by the licensee of contracts for the sale and delivery of power for periods extending beyond the date of termination of the license, such contracts may be entered into upon the joint approval of the commission and of the public-service commission or other similar authority in the State in which the sale or delivery of power is made, or if sold or delivered in a State which has no such public-service commission, then upon the approval of the commission, and thereafter, in the event of failure to issue a new license to the original licensee at the termination of the license, the United States or the new licensee, as the case may be, shall assume and fulfill all such contracts. (Act June 10, 1920, c. 285, § 22.)

§ 9531w. Existing projects; works on nonnavigable waters or in interests of interstate commerce.—The provisions of this Act shall not be construed as affecting any permit or valid existing right of way heretofore granted, or as confirming or otherwise affecting any claim, or as affecting any authority heretofore given pursuant to law; but any person, association, corporation, State, or municipality, holding or possessing such permit, right of way, or authority may apply for a license hereunder, and upon such application the commission may issue to any such applicant a license in accordance with the provisions of this Act, and in such case the provisions of this Act shall apply to such applicant as a licensee hereunder: Provided, That when application is made for a license under this section for a project or projects already constructed, the fair value of said project or projects, determined as provided in this section, shall for the purposes of this Act and of said license be deemed to be the amount to be allowed as the net investment of the applicant in such project or projects as of the date of such license, or as of the date of such determination, if license has not been issued. Such fair value may, in the discretion of the commission, be determined by mutual agreement between the commission and the applicant or, in case they can not agree, jurisdiction is hereby conferred upon the district court of the United States in the district within which such project or projects may be located, upon the application of either party, to hear and determine the amount of such fair value.

Any person, association, corporation, State, or municipality intending to construct a dam or other project works across, along, over, or in any stream or part thereof, other than those defined herein as navigable waters, and over which Congress has jurisdiction under its authority to regulate commerce between foreign nations and among the several States, may in their discretion file declaration of such intention with the commission, whereupon the commission shall cause immediate investigation of such proposed construction to be made, and if upon investigation it shall find that the interests of interstate or foreign commerce would be affected by such proposed construction, such person, association, corporation, State, or municipality shall not proceed with such construction until it shall have applied for and shall have received a license under the provisions of this Act. If the commission shall not so find, and if no public lands or reservations are affected, permission is hereby granted to construct such dam or other project works in such stream upon compliance with State laws. (Act June 10, 1920, c. 285, § 23.)

§ 9531ww. Reservation of public land for water-power purposes.—Any lands of the United States included in any proposed project under the provisions of this Act shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the commission or by Congress. Notice that such application has been made, together with the date of filing thereof and a description of the lands of the United States affected thereby, shall be filed in the local land office for the district in which such lands are located. Whenever the commission shall determine that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as power sites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public-land laws, the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection,

subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the commission, for the purposes of this Act, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of this Act, upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, or upon giving a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, said bond to be in the form prescribed by the commission: Provided, That locations, entries, selections, or filings heretofore made for lands reserved as water-power sites or in connection with water-power development or electrical transmission may proceed to approval or patent under and subject to the limitations and conditions in this section contained. (Act June 10, 1920, c. 285, § 24.)

§ 9531x. **Offenses by licensees.**—Any licensee, or any person, who shall willfully fail or who shall refuse to comply with any of the provisions of this Act, or with any of the conditions made a part of any license issued hereunder, or with any subpoena of the commission, or with any regulation or lawful order of the commission, or of the Secretary of War, or of the Secretary of Commerce as to fishways, issued or made in accordance with the provisions of this Act, shall be deemed guilty of a misdemeanor, and, on conviction thereof shall, in the discretion of the court, be punished by a fine of not exceeding \$1,000, in addition to other penalties herein prescribed or provided by law; and every month any such licensee or any such person shall remain in default after written notice from the commission, or from the Secretary of War, or from the Secretary of Commerce, shall be deemed a new and separate offense punishable as aforesaid. (Act June 10, 1920, c. 285, § 25.)

§ 9531xx. **Remedies to enforce Act; revocation of permit or license and sale of project.**—The Attorney General may, on request of the commission or of the Secretary of War, institute proceedings in equity in the district court of the United States in the district in which any project or part thereof is situated for the purpose of revoking for violation of its terms any permit or license issued hereunder, or for the purpose of remedying or correcting by injunction, mandamus, or other process any act of commission or omission in violation of the provisions of this Act or of any lawful regulation or order promulgated hereunder. The district courts shall have jurisdiction over all of the above-mentioned proceedings and shall have power to issue and execute all necessary process and to make and enforce all writs, orders, and decrees to compel compliance with the lawful orders and regulations of the commission and of the Secretary of War, and to compel the performance of any condition imposed under the provisions of this Act. In the event a decree revoking a license is entered, the court is empowered to sell the whole or any part of the project or projects under license, to wind up the business of such licensee conducted in connection with such project or projects, to distribute the proceeds to the parties entitled to the same, and to make and enforce such further orders and decrees as equity and justice may require. At such sale or sales the vendee shall take the rights and privileges belonging to the licensee and shall perform the duties of such licensee and assume all outstanding obligations and liabilities of the licensee which the court may deem equitable in the premises; and at such sale or sales the United States may become a purchaser, but it shall not be required to pay a greater amount than it would be required to pay under the provisions of section 14 hereof at the termination of the license. (Act June 10, 1920, c. 285, § 26.)

Note.—§ 14 is now § 9531n.

§ 9531y. **Interference with State rights.**—Nothing herein contained shall be construed as affecting or intending to affect or in any way to interfere with the laws of the respective States relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal or other uses, or any vested right acquired therein. (Act June 10, 1920, c. 285, § 27.)

§ 9531yy. Amendment of law.—The right to alter; amend, or repeal this Act is hereby expressly reserved; but no such alteration, amendment, or repeal shall affect any license theretofore issued under the provisions of this Act, or the rights of any licensee thereunder. (Act June 10, 1920, c. 285, § 28.)

§ 9531z. Repeal of laws.—All Acts or parts of Acts inconsistent with this Act are hereby repealed: Provided, That nothing herein contained shall be held or construed to modify or repeal any of the provisions of the Act of Congress approved December 19, 1913, granting certain rights of way to the city and county of San Francisco, in the State of California: Provided further, That section 18 of an Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, approved August 8, 1917, is hereby repealed. (Act June 10, 1920, c. 285, § 29.)

§ 9531zz. Title of law.—The short title of this Act shall be "The Federal Water Power Act." (Act June 10, 1920, c. 285, § 30.)

TITLE LXXXI.

THE PANAMA CANAL.

§ 9536. Governor and officers of Canal Zone.

Note.—Act March 3, 1919, c. 99, § 1, making appropriations for fortifications and other works of defense, provides that "the Governor of the Panama Canal, so far as the expenditure of appropriations contained in this Act may be under his direction, shall purchase needed materials, supplies, and equipment from available surplus stocks of the War Department."

TITLE LXXXII.

RAILWAYS RECEIVING FEDERAL AID.

§ 9577. Army transportation.—For the payment of Army transportation lawfully due such land-grant railroads as have not received aid in Government bonds (to be adjusted in accordance with the decisions of the Supreme Court in cases decided under such land-grant Acts), but in no case shall more than 50 per centum of full amount of service be paid: Provided, That such compensation shall be computed upon the basis of the tariff or lower special rates for like transportation performed for the public at large and shall be accepted as in full for all demands for such service: Provided further, That in expending the money appropriated by this Act a railroad company which has not received aid in bonds of the United States and which obtained a grant of public land to aid in the construction of its railroad on conditions that such railroad should be a post route and military road, subject to the use of the United States for postal, military, naval, and other Government services, and also subject to such regulations as Congress may impose restricting the charge for such Government transportation, having claims against the United States for transportation of troops and munitions of war and military supplies and property over such aided railroads, shall be paid out of the moneys appropriated by the foregoing provisions only on the basis of such rate for the transportation of such troops and munitions of war and military supplies and property as the Secretary of War shall deem just and reasonable under the foregoing provision, such rate not to exceed 50 per centum of the compensation of such Government transportation as shall at that time be charged to and paid by private parties to any such company for like and similar transportation; and the amount so fixed to be paid shall be accepted as in

full for all demands for service: And provided further, That nothing in the preceding provisos shall be construed to prevent the accounting officers of the Government from making full payment to land-grant railroads for transportation of property or persons where the courts of the United States have held that such property or persons do not come within the scope of the deductions provided for in the land-grant Acts. (Acts Aug. 29, 1916, c. 418, § 1, 39 Stat. 633; Oct. 6, 1917, c. 79, § 1, 40 Stat. 361; March 28, 1918, c. 28, 40 Stat.; July 9, 1918 c. 143, Title I, 40 Stat.; July 11, 1919, c. 8, § 1.)

§ 9579a. Relief of settlers on railroad lands in Montana.—In the adjustment of the grants to the Northern Pacific Railroad Company, if any of the lands within the indemnity limits of said grants through that portion of the former reservation for the Gros Ventre, Piegan, Blood, Blackfoot, and River Crow Indians lying south of the Missouri River in the State of Montana be found in possession of an actual bona fide qualified settler under the homestead laws of the United States who has made substantial improvements thereon and such land has been adjudged by the Secretary of the Interior to inure to the Northern Pacific Railway Company under the grants made to its predecessor in interest, the Northern Pacific Railroad Company, the Northern Pacific Railway Company upon request of the Secretary of the Interior may file a relinquishment of said lands in favor of the settler and shall then be entitled to select an equal quantity of other lands in lieu thereof from any of the surveyed public lands within the State of Montana, not mineral and not otherwise appropriated at the date of selection, to which it shall receive title the same as though originally granted: Provided, however, That lands withdrawn or classified as coal lands may be selected by said company, and as to such lands it shall receive a restricted patent as provided by the Act of June twenty-second, nineteen hundred and ten. (Act Feb. 28, 1919, c. 72.)

§ 9579b. Conveyance of part of right of way for highway.—All railroad companies to which grants for rights of way through the public lands have been made by Congress, or their successors in interest or assigns, are hereby authorized to convey to any State, county, or municipality any portion of such right of way to be used as a public highway or street: Provided, That no such conveyance shall have the effect to diminish the right of way of such railroad company to a less width than fifty feet on each side of the center of the main track of the railroad as now established and maintained. (Acts March 3, 1887, c. 345, § 5, 24 Stat. 492; May 25, 1920, c. 197.)

TITLE LXXXIII.

TELEGRAPHS.

§ 9617a. Operation of Government owned radio stations.—All land, ship, and airship radio stations, and all apparatus therein owned by the United States may be used by it for receiving and transmitting messages relating to Government business, compass reports, and the safety of ships.

The Secretary of the Navy is hereby authorized, under terms and conditions and at rates prescribed by him, which rates shall be just and reasonable, and which, upon complaint, shall be subject to review and revision by the Interstate Commerce Commission, to use all radio stations and apparatus, wherever located, owned by the United States and under the control of the Navy Department—(a) for the reception and transmission of press messages offered by any newspaper published in the United States, its Territories or possessions, or published by citizens of the United States in foreign countries, or by any press association of the United States, and (b) for the reception and transmission of private commercial messages: Provided, That the rates fixed for the reception and transmission of commercial messages, other than press messages, shall not be less than the rates charged by privately owned and operated stations

for like messages and service: Provided further, That the right to use such stations for any of the purposes named in this section shall terminate and cease as between any countries or localities or between any locality and privately operated ships, whenever privately owned and operated stations are capable of meeting the normal communication requirements between such countries or localities or between any locality and privately operated ships, and the Secretary of Commerce shall have notified the Secretary of the Navy thereof, and all rights conferred by this section shall terminate and cease in any event two years from the date this resolution takes effect.

All stations owned and operated by the Government, except as herein otherwise provided, shall be used and operated in accordance with the provisions of the Act of Congress entitled "An Act to regulate radio communication," approved August 13, 1912. (Res. No. 48, June 5, 1920, c. 269.)

TITLE LXXXVII.

CRIMES.

CHAPTER 8.

OFFENSES AGAINST THE POSTAL SERVICE.

§ 9914. Poisons, explosives, or other dangerous articles; intoxicating liquors.—All kinds of poison, and all articles and compositions containing poison, and all poisonous animals, insects, and reptiles, and explosives of all kinds, and inflammable materials, and infernal machines, and mechanical, chemical, or other devices or compositions which may ignite or explode, and all disease germs or scabs, and all other natural or artificial articles, compositions, or materials, of whatever kind, which may kill or in anywise hurt, harm, or injure another or damage, deface or otherwise injure the mails or other property, whether sealed as first-class matter or not, are hereby declared to be nonmailable matter, and shall not be conveyed in the mails or delivered from any post office or station thereof, nor by any letter carrier; but the Postmaster General may permit the transmission in the mails, from the manufacturer thereof or dealer therein to licensed physicians, surgeons, dentists, pharmacists, druggists, and veterinarians, under such rules and regulations as he shall prescribe, of any articles hereinbefore described which are not outwardly or of their own force dangerous or injurious to life, health, or property: Provided, That all spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind are hereby declared to be nonmailable, and shall not be deposited in or carried through the mails. Whoever shall knowingly deposit or cause to be deposited for mailing or delivery, or shall knowingly cause to be delivered by mail, according to the direction thereon or at any place at which it is directed to be delivered by the person to whom it is addressed, anything declared by this section to be nonmailable, unless in accordance with the rules and regulations hereby authorized to be prescribed by the Postmaster General, shall be fined not more than \$1,000 or imprisoned not more than two years, or both; and whoever shall knowingly deposit or cause to be deposited for mailing or delivery, or shall knowingly cause to be delivered by mail, according to the direction thereon or at any place to which it is directed to be delivered by the person to whom it is addressed, anything declared by this section to be nonmailable, whether transmitted in accordance with the rules and regulations authorized to be prescribed by the Postmaster General or not, with the design, intent, or purpose to kill or in anywise hurt, harm, or injure another, or damage, deface, or otherwise injure the mails or other property, shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both. (C. C. § 217; Acts March 4, 1909, c. 321, § 217, 35 Stat. 1131; May 25, 1920, c. 196.)

Note.—See §§ 8352, 9315.

§ 9915. Transportation of liquor by mail or in interstate commerce.

Note.—By Act Feb. 24, 1919, c. 18, § 1407, this statute as amended, is "made applicable to the District of Columbia." See §§ 83.2, 9914.

CHAPTER 9.

OFFENSES AGAINST FOREIGN AND INTERSTATE COMMERCE.

§ 9944. Importation or transportation of obscene or abortion matter.—

Whoever shall bring or cause to be brought into the United States, or any place subject to the jurisdiction thereof, from any foreign country, or shall therein knowingly deposit or cause to be deposited with any express company or other common carrier, for carriage from one State, Territory, or District of the United States or place noncontiguous to but subject to the jurisdiction thereof, to any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any place in or subject to the jurisdiction of the United States, through a foreign country, to any place in or subject to the jurisdiction thereof, or from any place in or subject to the jurisdiction of the United States to a foreign country, any obscene, lewd, or lascivious, or any filthy book, pamphlet, picture, motion-picture film, paper, letter, writing, print, or other matter of indecent character, or any drug, medicine, article, or thing designed, adapted, or intended for preventing conception, or producing abortion, or for any indecent or immoral use; or any written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, how, or of whom, or by what means any of the hereinbefore mentioned articles, matters, or things may be obtained or made; or whoever shall knowingly take or cause to be taken from such express company or other common carrier any matter or thing the depositing of which for carriage is herein made unlawful, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (C. C. § 245; Acts Feb. 8, 1897, c. 172, 29 Stat. 512; Feb. 8, 1905, c. 550, 33 Stat. 705; March 4, 1909, c. 321, § 245, 35 Stat. 1138; June 5, 1920, c. 268.)

§ 9945a. Larceny of motor vehicle.—When used in this Act—(a) The term "motor vehicle" shall include an automobile, automobile truck, automobile wagon, motor cycle, or any other self-propelled vehicle not designed for running on rails;

(b) the term "interstate or foreign commerce" as used in this Act shall include transportation from one State, Territory, or the District of Columbia, to another State, Territory, or the District of Columbia, or to a foreign country, or from a foreign country to any State, Territory, or the District of Columbia.

That whoever shall transport or cause to be transported in interstate or foreign commerce a motor vehicle, knowing the same to have been stolen, shall be punished by a fine of not more than \$5,000, or by imprisonment of not more than five years, or both.

Whoever shall receive, conceal, store, barter, sell, or dispose of any motor vehicle, moving as, or which is a part of, or which constitutes interstate or foreign commerce, knowing the same to have been stolen, shall be punished by a fine of not more than \$5,000, or by imprisonment of not more than five years, or both.

Any person violating this Act may be punished in any district in or through which such motor vehicle has been transported or removed by such offender. (Act Oct. 29, 1919, c. 89, §§ 1-5.)

TITLE XC.

NATIONAL DEFENSE AND KINDRED AND OTHER PROVISIONS.

CHAPTER 2.

WAR MATERIALS, FACILITIES, AND EQUIPMENT.

§ 10154. Repealed by Act June 5, 1920, c. 250, § 2.—§ 7516b herein.

§ 10155. Repealed by Act June 5, 1920, c. 250, § 2.—§ 7516b herein.

§ 10159. **Revolving fund; improvements; routing of shipments by water.**—The sum of \$500,000,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, which, together with any funds available from any operating income of said carriers, may be used by the President as a revolving fund for the purpose of paying the expenses of the Federal control, and so far as necessary the amount of just compensation, and to provide terminals, motive power, cars, and other necessary equipment, such terminals, motive power, cars, and equipment to be used and accounted for as the President may direct and to be disposed of as Congress may hereafter by law provide.

The President may also make or order any carrier to make any additions, betterments, or road extensions, and to provide terminals, motive power, cars and other equipment necessary or desirable for war purposes or in the public interest on or in connection with the property of any carrier. He may from said revolving fund advance to such carrier all or any part of the expense of such additions, betterments, or road extensions and to provide terminals, motive power, cars, and other necessary equipment so ordered and constructed by such carrier or by the President, such advances to be charged against such carrier and to bear interest at such rate and be payable on such terms as may be determined by the President, to the end that the United States may be fully reimbursed for any sums so advanced. Any loss claimed by any carrier by reason of any such additions, betterments, or road extensions so ordered and constructed may be determined by agreement between the President and such carrier; failing such agreement the amount of such loss shall be ascertained as provided in section three hereof.

From said revolving fund the President may expend such an amount as he may deem necessary or desirable for the utilization and operation of canals, or for the purchase, construction, or utilization and operation of boats, barges, tugs, and other transportation facilities on the inland, canal, and coastwise waterways, and may in the operation and use of such facilities create or employ such agencies and enter into such contracts and agreements as he shall deem in the public interest.

No provision of this Act shall be construed to prevent the routing of freight by a shipper or consignee over any inland canal or coastwise waterway, or a part way over such waterway and a part way by rail. In case the shipper or consignee shall so route the freight, no provision of this Act shall be construed as giving power to change the routing. (Acts March 21, 1918, c. 25, § 6; March 2, 1919, c. 95, § 7.)

Note 1.—By Act June 30, 1919, c. 45, § 1, "there is appropriated, out of any money in the Treasury not otherwise appropriated, \$750,000,000, which shall be in addition to the appropriation of \$500,000,000 made in section 6 of said Act, and shall be subject in all respects to the same authority for, and restrictions of expenditure as the said \$500,000,000."

Note 2.—§ 3, so referred to, is paragraph three of § 1957, Barnes' Federal Code.

§ 10159a. Reimbursement for Federal advancements; contracts for improvements.—In order to make provision for the reimbursement of the United States for the sums advanced to provide motive power, cars, and other equipment ordered by the President for the railroads and systems of transportation now under Federal control, herein called "carriers," pursuant to the authority conferred by the second paragraph of section 6 of the Act of March 21, 1918, the President may, upon such terms as he shall deem advisable, receive in reimbursement cash, or obligations of any carrier, or part cash and part such obligations, or in his discretion he may accept for such motive power, cars, or other equipment, cash or the shares of stock or obligations, secured or unsecured, of any corporation not a carrier organized for the purpose of owning equipment or equipment obligations, or part cash and part such shares of stock and obligations, and he may transfer to such corporation any obligations of carriers received on account of motive power, cars, or other equipment, and he may execute any instruments necessary and proper to carry out the intent of the second paragraph of section 6 of said Act of March 21, 1918, to the end that title to the motive power, cars, and other equipment so ordered by the President as aforesaid for the carriers may rest in them or their trustees or nominees.

In addition to the powers herein and heretofore conferred, the President is further authorized to dispose, in the manner and for the consideration aforesaid, of motive power, cars, and other equipment, if any, provided by him in accordance with any other provisions of said section, and of any obligations of carriers that may be received in reimbursement of the cost thereof.

Any contract for the sale of any motive power, cars, or other equipment ordered or provided under any of the provisions of section 6 of said Act of March 21, 1918, may provide that title thereto, notwithstanding delivery of possession, shall not vest in the carrier until the purchase price, which may be payable in installments during any period not exceeding fifteen years, shall be fully paid and the conditions of purchase fully performed. Any such contract shall be in writing, and acknowledged or proved before some person authorized to administer oaths, and filed with the Interstate Commerce Commission within sixty days after the delivery thereof, and shall be valid and enforceable as against all persons whomsoever.

Nothing herein contained shall be deemed to abrogate or limit the powers conferred upon the President by said Act of March 21, 1918.

The President may execute any of the powers herein granted through such agencies as he may determine.

This Act is emergency legislation, enacted to meet conditions growing out of war and to effectuate said Act of March 21, 1918. (Act Nov. 19, 1919, c. 116, §§ 1-5.)

§ 10169a. Termination of Federal control.—(a) Federal control shall terminate at 12.01 a. m., March 1, 1920; and the President shall then relinquish possession and control of all railroads and systems of transportation then under Federal control and cease the use and operation thereof.

(b) Thereafter the President shall not have or exercise any of the powers conferred upon him by the Federal Control Act relating—

- (1) To the use or operation of railroads or systems of transportation;
- (2) To the control or supervision of the carriers owning or operating them, or of the business or affairs of such carriers;
- (3) To their rates, fares, charges, classifications, regulations, or practices;
- (4) To the purchase, construction, or other acquisition of boats, barges, tugs, and other transportation facilities on the inland, canal, or coastwise waterways; or (except in pursuance of contracts or agreements entered into before the termination of Federal control) of terminals, motive power, cars, or equipment, on or in connection with any railroad or system of transportation;
- (5) To the utilization or operation of canals;

(6) To the purchase of securities of carriers, except in pursuance of contracts or agreements entered into before the termination of Federal control, or as a necessary or proper incident to the adjustment, settlement, liquidation and winding up of matters arising out of Federal control; or

(7) To the use for any of the purposes above stated (except in pursuance of contracts or agreements entered into before the termination of Federal control, and except as a necessary or proper incident to the winding up or settling of matters arising out of Federal control, and except as provided in section 202) of the revolving fund created by such Act, or of any of the additions thereto made under such Act, or by the Act entitled "An Act to supply a deficiency in the appropriation for carrying out the Act entitled 'An Act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes,' approved March 21, 1918," approved June 30, 1919.

(c) Nothing in this Act shall be construed as affecting or limiting the power of the President in time of war (under section 1 of the Act entitled "An Act making appropriations for the support of the Army for the fiscal year ending June 30, 1917, and for other purposes," approved August 29, 1916) to take possession and assume control of any system of transportation and utilize the same. (Act Feb. 28, 1920, c. 91, Title II, § 200.)

Note.—§ 202 is now § 10169c.

§ 10169b. Government-owned boats on inland waterways.—(a) On the termination of Federal control, as provided in section 200, all boats, barges, tugs, and other transportation facilities, on the inland, canal, and coastwise waterways (hereinafter in this section called "transportation facilities") acquired by the United States in pursuance of the fourth paragraph of section 6 of the Federal Control Act (except the transportation facilities constituting parts of railroads or transportation systems over which Federal control was assumed) are transferred to the Secretary of War, who shall operate or cause to be operated such transportation facilities so that the lines of inland water transportation established by or through the President during Federal control shall be continued, and assume and carry out all contracts and agreements in relation thereto entered into by or through the President in pursuance of such paragraph prior to the time above fixed for such transfer. All payments under the terms of such contracts, and for claims arising out of the operation of such transportation facilities by or through the President prior to the determination of Federal control, shall be made out of moneys available under the provisions of this Act for adjusting, settling, liquidating, and winding up matters arising out of or incident to Federal control. Moneys required for such payments shall, from time to time, be transferred to the Secretary of War as required for payment under the terms of such contracts.

(b) All other payments after such transfer in connection with the construction, utilization, and operation of any such transportation facilities, whether completed or under construction, shall be made by the Secretary of War out of funds now or hereafter made available for that purpose.

(c) The Secretary of War is hereby authorized, out of any moneys hereafter made available therefor, to construct or contract for the construction of terminal facilities for the interchange of traffic between the transportation facilities operated by him under this section and other carriers whether by rail or water, and to make loans for such purposes under such terms and conditions as he may determine to any State whose constitution prohibits the ownership of such terminal facilities by other than the State or a political subdivision thereof.

(d) Any transportation facilities owned by the United States and included within any contract made by the United States for operation on the Mississippi River above Saint Louis, the possession of which reverts to the United States at or before the expiration of such contract, shall be operated by the Secretary of War so as to provide facilities for water carriage on the Mississippi River above Saint Louis.

(e) The operation of the transportation facilities referred to in this section shall be subject to the provisions of the Interstate Commerce Act as amended by this Act or by subsequent legislation, and to the provisions of the "Shipping Act, 1916," as now or hereafter amended, in the same manner and to the same extent as if such transportation facilities were

privately owned and operated; and all such vessels while operated and employed solely as merchant vessels shall be subject to all other laws, regulations, and liabilities governing merchant vessels, whether the United States is interested therein as owner, in whole or in part, or holds any mortgage, lien, or interest therein. For the performance of the duties imposed by this section the Secretary of War is authorized to appoint or employ such number of experts, clerks, and other employees as may be necessary for service in the District of Columbia or elsewhere, and as may be provided for by Congress. (Act Feb. 28, 1920, c. 91, Title II, § 201.)

Note.—§ 200 is now § 10169a.

§ 10169c. Settlement of matters arising out of Federal control.—The President shall, as soon as practicable after the termination of Federal control, adjust, settle, liquidate, and wind up all matters, including compensation, and all question and disputes of whatever nature, arising out of or incident to Federal control. For these purposes and for the purpose of making the payments specified in subdivision (a) of section 201, all unexpended balances in the revolving fund created by the Federal Control Act or of the moneys appropriated by the Act entitled "An Act to supply a deficiency in the appropriation for carrying out the Act entitled 'An Act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes,' approved March 21, 1918," approved June 30, 1919, are hereby reappropriated and made available until expended; and all moneys derived from the operation of the carriers or otherwise arising out of Federal control, and all moneys that have been or may be received in payment of the indebtedness of any carrier to the United States arising out of Federal control, shall be and remain available until expended for the aforesaid purposes; and there is hereby appropriated for the aforesaid purposes, out of any money in the Treasury not otherwise appropriated, \$200,000,000 in addition to the above, to be available until expended. (Act Feb. 28, 1920, c. 91, Title II, § 202.)

Note.—§ 201 is now § 10169b.

§ 10169d. Compensation of carriers with which no contract made.—(a) Upon the request of any carrier entitled to just compensation under the Federal Control Act, but with which no contract fixing or waiving compensation, has been made and which has made no waiver of compensation, the President: (1) shall pay to it so much of the amount he may determine to be just compensation as may be necessary to enable such carrier to have the sums required for interest, taxes, and other corporate charges and expenses referred to in paragraph (b) of section 7 of the standard contract between the United States and the carriers, accruing during the period for which such carrier is entitled to just compensation under the Federal Control Act, and also the sums required for dividends declared and paid during the same period, including, also, in addition, a sum equal to that proportion of such last dividend which the period between its payment and the termination of the period for which the carrier is entitled to just compensation under the Federal Control Act bears to the last dividend period; and (2) may, in his discretion, pay to such carrier the whole or any part of the remainder of such estimated amount of just compensation.

(b) The acceptance of any benefits by a carrier under this section—

(1) shall not deprive it of the right to claim additional compensation, which, unless agreed upon, shall be ascertained in the manner provided in section 3 of the Federal Control Act; but

(2) shall constitute an acceptance by the carrier of all the provisions of the Federal Control Act as modified by this Act, and obligate the carrier to pay to the United States, with interest at the rate of 6 per centum per annum from a date or dates fixed in proceedings under section 3 of the Federal Control Act, the amount by which the sums received on account of such compensation, under this section or otherwise, exceed the sum found due in such proceeding. (Act Feb. 28, 1920, c. 91, Title II, § 203.)

§ 10169e. Reimbursement of deficits during Federal control.—(a) When used in this section—

The term "carrier" means a carrier by railroad which, during any part of the period of Federal control, engaged as a common carrier in general transportation, and competed for traffic, or connected, with a railroad under Federal control, and which sustained a deficit in its railway operating income for that portion (as a whole) of the period of Federal control during which it operated its own railroad or system of transportation; but does not include any street or interurban electric railway which has as its principal source of operating revenue urban, suburban, or interurban passenger traffic or sale of power, heat, and light, or both; and

The term "test period" means the three years ending June 30, 1917.

(b) For the purposes of this section—

Railway operating income or any deficit therein for the period of Federal control shall be computed in a manner similar to that provided in section 209 with respect to such income or deficit for the guaranty period; and

Railway operating income or any deficit therein for the test period shall be computed in the manner provided in section 1 of the Federal Control Act.

(c) As soon as practicable after March 1, 1920, the Commission shall ascertain for every carrier, for every month of the period of Federal control during which its railroad or system of transportation was not under Federal operation, its deficit in railway operating income, if any, and its railway operating income, if any, (hereinafter called "Federal control return"), and the average of its deficit in railway operating income, if any, and of its railway operating income, if any, for the three corresponding months of the test period taken together, (hereinafter called "test period return"): Provided, That "test period return," in the case of a carrier which operated its railroad or system of transportation for at least one year during, but not for the whole of, the test period, means its railway operating income, or the deficit therein, for the corresponding month during the test period, or the average thereof for the corresponding months during the test period taken together, during which the carrier operated its railroad or system of transportation.

(d) For every month of the period of Federal control during which the railroad or system of transportation of the carrier was not under Federal operation, the Commission shall then ascertain (1) the difference between its Federal control return, if a deficit, and its test period return, if a smaller deficit, or (2) the difference between its test period return, if an income, and its Federal control return, if a smaller income, or (3) the sum of its Federal control return, if a deficit, plus its test period return, if an income. The sum of such amounts shall be credited to the carrier.

(e) For every such month the Commission shall then ascertain (1) the difference between the carrier's Federal control return, if an income, and its test period return, if a smaller income, or (2) the difference between its test period return, if a deficit, and its Federal control return, if a smaller deficit, or (3) the sum of its Federal control return, if an income, plus its test period return, if a deficit. The sum of such amounts shall be credited to the United States.

(f) If the sum of the amounts so credited to the carrier under subdivision (d) exceeds the sum of the amounts so credited to the United States under subdivision (e), the difference shall be payable to the carrier. In the case of a carrier which operated its railroad or system of transportation for less than a year during, or for none of, the test period, the foregoing computations shall not be used, but there shall be payable to such carrier its deficit in railway operating income for that portion (as a whole) of the period of Federal control during which it operated its own railroad or system of transportation.

(g) The Commission shall promptly certify to the Secretary of the Treasury the several amounts payable to carriers under paragraph (f). The Secretary of the Treasury is hereby authorized and directed thereupon to draw warrants in favor of each such carrier upon the Treasury of the United States for the amount shown in such certificate as payable thereto. An amount sufficient to pay such warrants is hereby appropriated out of any money in the Treasury not otherwise appropriated. (Act Feb. 28, 1920, c. 91, Title II, § 204.)

Note.—§ 209 is now § 10169j.

§ 10169f. Inspection of carriers' records.—The President shall have the right, at all reasonable times until the affairs of Federal control are concluded, to inspect the property and records of all carriers whose railroads or systems of transportation were at any time under Federal control, whenever such inspection is necessary or appropriate (1) to protect the interests of the United States, or (2) to supervise matters being handled for the United States by agents of the carriers, or (3) to secure information concerning matters arising during Federal control, and such carriers shall provide all reasonable facilities therefor, including the issuance of free transportation to all agents of the President while traveling on official business for these purposes.

Such carriers shall, at their expense, upon the request of the President, or those duly authorized by him, furnish all necessary and proper information and reports compiled from the records made or kept during the period of Federal control affecting their respective lines, and shall keep and continue such records and furnish like information and reports compiled therefrom.

Any carrier which refuses or obstructs such inspection, or which willfully fails to provide reasonable facilities therefor, or to furnish such information or reports shall be liable to a penalty of \$500 for each day of the continuance of such offense, which shall accrue to the United States and may be recovered in a civil action to be brought by the United States. (Act Feb. 28, 1920, c. 91, Title II, § 205.)

§ 10169g. Causes of action arising out of Federal control.—(a) Actions at law, suits in equity and proceedings in admiralty, based on causes of action arising out of the possession, use, or operation by the President of the railroad or system of transportation of any carrier (under the provisions of the Federal Control Act, or of the Act of August 29, 1916) of such character as prior to Federal control could have been brought against such carrier, may, after the termination of Federal control, be brought against an agent designated by the President for such purpose, which agent shall be designated by the President within thirty days after the passage of this Act. Such actions, suits, or proceedings may, within the periods of limitation now prescribed by State or Federal statutes but not later than two years from the date of the passage of this Act, be brought in any court which but for Federal control would have had jurisdiction of the cause of action had it arisen against such carrier.

(b) Process may be served upon any agent or officer of the carrier operating such railroad or system of transportation, if such agent or officer is authorized by law to be served with process in proceedings brought against such carrier and if a contract has been made with such carrier by or through the President for the conduct of litigation arising out of operation during Federal control. If no such contract has been made process may be served upon such agents or officers as may be designated by or through the President. The agent designated by the President under subdivision (a) shall cause to be filed, upon the termination of Federal control, in the office of the Clerk of each District Court of the United States, a statement naming all carriers with whom he has contracted for the conduct of litigation arising out of operation during Federal control, and a like statement designating the agents or officers upon whom process may be served in actions, suits, and proceedings arising in respect to railroads or systems of transportation with the owner of which no such contract has been made; and such statements shall be supplemented from time to time, if additional contracts are made or other agents or officers appointed.

(c) Complaints praying for reparation on account of damage claimed to have been caused by reason of the collection or enforcement by or through the President during the period of Federal control of rates, fares, charges, classifications, regulations, or practices (including those applicable to interstate, foreign, or intrastate traffic) which were unjust, unreasonable, unjustly discriminatory, or unduly or unreasonably prejudicial, or otherwise in violation of the Interstate Commerce Act, may be filed with the Commission, within one year after the termination of Federal control, against the agent designated by the President under subdivision (a), naming in the petition the railroad or system of transportation against which such

complaint would have been brought if such railroad or system had not been under Federal control at the time the matter complained of took place. The Commission is hereby given jurisdiction to hear and decide such complaints in the manner provided in the Interstate Commerce Act, and all notices and orders in such proceedings shall be served upon the agent designated by the President under subdivision (a).

(d) Actions, suits, proceedings, and reparation claims, of the character above described pending at the termination of Federal control shall not abate by reason of such termination, but may be prosecuted to final judgment, substituting the agent designated by the President under subdivision (a).

(e) Final judgments, decrees, and awards in actions, suits, proceedings, or reparation claims, of the character above described, rendered against the agent designated by the President under subdivision (a), shall be promptly paid out of the revolving fund created by section 210.

(f) The period of Federal control shall not be computed as a part of the periods of limitation in actions against carriers or in claims for reparation to the Commission for causes of action arising prior to Federal control.

(g) No execution or process, other than on a judgment recovered by the United States against a carrier, shall be levied upon the property of any carrier where the cause of action on account of which the judgment was obtained grew out of the possession, use, control, or operation of any railroad or system of transportation by the President under Federal control. (Act Feb. 28, 1920, c. 91, Title II, § 206.)

Note.—§ 210 is now § 10169k.

§ 10169h. Refunding of carriers' indebtedness to United States.—(a) As soon as practicable after the termination of Federal control the President shall ascertain (1) the amount of the indebtedness of each carrier to the United States, which may exist at the termination of Federal control, incurred for additions and betterments made during Federal control and properly chargeable to capital account; (2) the amount of indebtedness of such carrier to the United States otherwise incurred; and (3) the amount of the indebtedness of the United States to such carrier arising out of Federal control. The amount under clause (3) may be set off against either or both of the amounts under clauses (1) and (2), so far as deemed wise by the President, but only to the extent permitted under any contract now or hereafter made between such carrier and the United States in respect to the matters of Federal control, or, where no such contract exists, to the extent permitted under paragraph (b) of section 7 of the standard contract between the United States and the carriers relative to deductions from compensation: Provided, That such right of set-off shall not be so exercised as to prevent such carrier from having the sums required for interest, taxes, and other corporate charges and expenses referred to in paragraph (b) of section 7 of such standard contract, accruing during Federal control, and also the sums required for dividends declared and paid during Federal control, including, also in addition, a sum equal to that proportion of such last dividend which the period between its payment and the termination of Federal control bears to the last regular dividend period: And provided further, That such right of set-off shall not be exercised unless there shall have first been paid such sums in addition as may be necessary to provide the carrier with working capital in amount not less than one twenty-fourth of its operating expenses for the calendar year 1919.

(b) Any remaining indebtedness of the carrier to the United States in respect to such additions and betterments shall, at the request of the carrier, be funded for a period of ten years from the termination of Federal control, or a shorter period at the option of the carrier, with interest at the rate of 6 per centum per annum, payable semiannually, subject to the right of such carrier to pay, on any interest-payment day, the whole or any part of such indebtedness. Any carrier obtaining the funding of such indebtedness as aforesaid shall give, in the discretion of the President, such security, in such form and upon such terms, as he may prescribe.

(c) If the President and the various carriers, or any of them, shall enter into an agreement for funding, through the medium of car trust certificates, or otherwise, the indebtedness of any such carrier to the United States incurred for equipment ordered for the benefit of such carrier, such indebtedness so funded shall not be refundable under the foregoing provisions.

(d) Any other indebtedness of any such carrier to the United States which may exist after the settlement of accounts between the United States and the carrier and is then due shall be evidenced by notes payable in one year from the termination of Federal control, or a shorter period at the option of the carrier, with interest at the rate of 6 per centum per annum, and secured by such collateral security as the President may deem it advisable to require.

(e) With respect to any bonds, notes, or other securities, acquired under the provisions of this section or of the Federal Control Act or of the Act entitled "An Act to provide for the reimbursement of the United States for motive power, cars and other equipment ordered for railroads and systems of transportations under Federal control, and for other purposes," approved November 19, 1919, the President shall have the right to make such arrangements for extension of the time of payment or for the exchange of any of them for other securities, or partly for cash and partly for securities, as may be provided for in any agreement entered into by him or as may in his judgment seem desirable.

(f) Carriers may, by agreement with the President, issue notes or other evidences of indebtedness, secured by equipment trust agreements, for equipment purchased during Federal control by or through the President under section 6 of the Federal Control Act, and allocated to such carriers respectively; and the filing of such equipment trust agreements with the Commission shall constitute notice thereof to all the world.

(g) A carrier may issue evidences of indebtedness pursuant to this section without the authorization or approval of any authority, State or Federal, and without compliance with any requirement, State or Federal, as to notification. (Act Feb. 28, 1920, c. 91, Title II, § 207.)

§ 10169i. Existing rates to continue in effect.—(a) All rates, fares, and charges, and all classifications, regulations, and practices, in anywise changing, affecting, or determining, any part or the aggregate of rates, fares, or charges, or the value of the service rendered, which on February 29, 1920, are in effect on the lines of carriers subject to the Interstate Commerce Act, shall continue in force and effect until thereafter changed by State or Federal authority, respectively, or pursuant to authority of law; but prior to September 1, 1920, no such rate, fare, or charge shall be reduced, and no such classification, regulation, or practice shall be changed in such manner as to reduce any such rate, fare, or charge, unless such reduction or change is approved by the Commission.

(b) All divisions of joint rates, fares, or charges, which on February 29, 1920, are in effect between the lines of carriers subject to the Interstate Commerce Act, shall continue in force and effect until thereafter changed by mutual agreement between the interested carriers or by State or Federal authorities, respectively.

(c) Any land grant railroad organized under the Act of July 28, 1866 (chapter 300), shall receive the same compensation for transportation of property and troops of the United States as is paid to land grant railroads organized under the Land Grant Act of March 3, 1863, and the Act of July 27, 1866 (chapter 278). (Act Feb. 28, 1920, c. 91, Title II, § 208.)

§ 10169j. Guaranty to carriers after termination of Federal control.—(a) When used in this section—

The term "carrier" means (1) a carrier by railroad or partly by railroad and partly by water, whose railroad or system of transportation is under Federal control at the time Federal control terminates, or which has heretofore engaged as a common carrier in general transportation and competed for traffic, or connected, with a railroad at any time under Federal control; and (2) a sleeping car company whose system of transportation is under Federal control at the time Federal control terminates; but does not include a street or interurban electric railway not under Federal control at the time Federal control terminates, which has as its principal source of operating revenue urban, suburban, or interurban passenger traffic or sale of power, heat, and light, or both;

The term "guaranty period" means the six months beginning March 1, 1920.

The term "test period" means the three years ending June 30, 1917; and

The term "railway operating income" and other references to accounts of carriers by railroad shall, in the case of a sleeping car company, be construed as indicating the appropriate corresponding accounts in the accounting system prescribed by the Commission.

(b) This section shall not be applicable to any carrier which does not on or before March 15, 1920, file with the Commission a written statement that it accepts all the provisions of this section.

(c) The United States hereby guarantees—

(1) With respect to any carrier with which a contract (exclusive of so-called cooperative contracts or waivers) has been made fixing the amount of just compensation under the Federal Control Act, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half the amount named in such contract as annual compensation, or, where the contract fixed a lump sum as compensation for the whole period of Federal operation, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than an amount which shall bear the same proportion to the lump sum so fixed as six months bears to the number of months during which such carrier was under Federal operation, including in both cases the increases in such compensation provided for in section 4 of the Federal Control Act;

(2) With respect to any carrier entitled to just compensation under the Federal Control Act, with which such a contract has not been made, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half of the annual amount estimated by the President as just compensation for such carrier under the Federal Control Act, including the increases in such compensation provided for in section 4 of the Federal Control Act. If any such carrier does not accept the President's estimate respecting its just compensation, and if in proceedings under section 3 of the Federal Control Act it is determined that a larger or smaller annual amount is due as just compensation, the guaranty under this paragraph shall be increased or decreased accordingly;

(3) With respect to any carrier, whether or not entitled to just compensation under the Federal Control Act, with which such a contract has not been made, and for which no estimate of just compensation is made by the President, and which for the test period as a whole sustained a deficit in railway operating income, the guaranty shall be a sum equal to (a) the amount by which any deficit in its railway operating income for the guaranty period as a whole exceeds one-half of its average annual deficit in railway operating income for the test period, plus (b) an amount equal to one-half the annual sum fixed by the President under section 4 of the Federal Control Act;

(4) With respect to any carrier not entitled to just compensation under the Federal Control Act, which for the test period as a whole had an average annual railway operating income, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half the average annual railway operating income of such carrier during the test period.

(d) If for the guaranty period as a whole the railway operating income of any carrier entitled to a guaranty under paragraph (1), (2), or (4) of subdivision (c) is in excess of the minimum railway operating income guaranteed in such paragraph, such carrier shall forthwith pay the amount of such excess into the Treasury of the United States. If for the guaranty period as a whole the railway operating income of any carrier entitled to a guaranty under paragraph (3) of subdivision (c) is in excess of one-half of the annual sum fixed by the President with respect to such carrier under section 4 of the Federal Control Act, such carrier shall forthwith pay the amount of such excess into the Treasury of the United States. The amounts so paid into the Treasury of the United States shall be added to the funds made available under section 202 for the purposes indicated in such section. Notwithstanding the provisions of this subdivision, any carrier may retain out of any such excess any amount necessary to enable it to pay its fixed charges accruing during the guaranty period.

(e) For the purposes of this section railway operating income, or any deficit therein, for the test period shall be computed in the manner provided for in section 1 of the Federal Control Act.

(f) In computing railway operating income, or any deficit therein, for the guaranty period for the purposes of this section—

(1) Debits and credits arising from the accounts, called in the monthly reports to the Commission equipment rents and joint facility rents, shall be included, but debits and credits arising from the operation of such street electric passenger railways, including railways commonly called interurbans, as are not under Federal control at the time of termination thereof, shall be excluded;

(2) Proper adjustments shall be made (a) in case any lines which were, during any portion of the period of Federal control, a part of the railroad or system of transportation of the carrier, and whose railway operating income was included in such income of the carrier for the test period, do not continue to be a part of such railroad or system of transportation during the entire guaranty period, and (b) in case of any lines acquired by, leased to, or consolidated with, the railroad or system of transportation of the carrier at any time since the end of the test period and prior to the expiration of the guaranty period, for which separate operating returns to the Commission are not made in respect to the entire portion of the guaranty period;

(3) There shall not be included in operating expenses, for maintenance of way and structures, or for maintenance of equipment, more than an amount fixed by the Commission. In fixing such amount the Commission shall so far as practicable apply the rule set forth in the proviso in paragraph (a) of section 5 of the "standard contract" between the United States and the carriers (whether or not such contract has been entered into with the carrier whose railway operating income is being computed);

(4) There shall not be included any taxes paid under Title I or II of the Revenue Act of 1917, or such portion of the taxes paid under Title II or III of the Revenue Act of 1918 as by the terms of such Act are to be treated as levied by an Act in amendment of Title I or II of the Revenue Act of 1917; and

(5) The Commission shall require the elimination and restatement of the operating expenses and revenues (other than for maintenance of way and structures, or maintenance of equipment) for the guaranty period, to the extent necessary to correct and exclude any disproportionate or unreasonable charge to such expenses or revenues for such period, or any charge to such expenses or revenues for such period which under a proper system of accounting is attributable to another period.

(g) The Commission shall, as soon as practicable after the expiration of the guaranty period, ascertain and certify to the Secretary of the Treasury the several amounts necessary to make good the foregoing guaranty to each carrier. The Secretary of the Treasury is hereby authorized and directed thereupon to draw warrants in favor of each such carrier upon the Treasury of the United States, for the amount shown in such certificate as necessary to make good such guaranty. An amount sufficient to pay such warrants is hereby appropriated out of any money in the Treasury not otherwise appropriated.

(h) Upon application of any carrier to the Commission, asking that during the guaranty period there may be advanced to it from time to time such sums, not in excess of the estimated amount necessary to make good the guaranty, as are necessary to enable it to meet its fixed charges and operating expenses, the Commission may certify to the Secretary of the Treasury the amount of, and times at which, such advances, if any, shall be made. The Secretary of the Treasury, on receipt of such certificate, is authorized and directed to make the advances in the amounts and at the times specified in the certificate, upon the execution by the carrier of a contract, secured in such manner as the Secretary may determine, that upon final determination of the amount of the guaranty provided for by this section such carrier will repay to the United States any amounts which it has received from such advances in excess of the guaranty, with interest at the rate of 6 per centum per annum from the time such excess was paid. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a sum sufficient to enable the Secretary of the Treasury to make the advances referred to in this subdivision.

(i) If the American Railway Express Company shall, on or before March 15, 1920, file with the Commission a written statement that it accepts all

the provisions of this subdivision, the contract of June 26, 1918, between such company and the Director General of Railroads, as amended and continued by agreement dated November 21, 1918, shall remain in full force and effect during the guaranty period in so far as the same constitutes a guaranty on the part of the United States to such company against a deficit in operating income.

In computing operating income, and any deficit therein, for the guaranty period for the purposes of this subdivision, the Commission shall require the elimination and restatement of the operating expenses and revenues for the guaranty period, to the extent necessary to correct and exclude any disproportionate or unreasonable charge to such expenses or revenues for such period, or any charge to such expenses or revenues for such period which under a proper system of accounting is attributable to another period, and to exclude from operating expenses so much of the charge for payment for express privileges to carriers on whose lines the express traffic is carried as is in excess of 50.25 per centum of gross express revenue.

For the guaranty period the American Railway Express Company shall pay to every carrier which accepts the provisions of this section, as provided in subdivision (b) hereof, 50.25 per centum of the gross revenue earned on the transportation of all its express traffic on the carrier's lines, and every such carrier shall accept from the American Railway Express Company such percentage of the gross revenue as its compensation. In arriving at the gross revenue on through or joint express traffic, the method of dividing the revenue between the carriers shall be that agreed upon between the carriers and such express company and approved by the Commission.

If for the guaranty period as a whole the American Railway Express Company does not have a deficit in operating income, it shall forthwith pay the amount of its operating income for such period into the Treasury of the United States. The amount so paid shall be added to the funds made available under section 202 for the purposes indicated in such section.

The Commission shall, as soon as practicable after the expiration of the guaranty period, certify to the Secretary of the Treasury the amount necessary to make good the foregoing guaranty to the American Railway Express Company. The Secretary of the Treasury is hereby authorized and directed thereupon to draw warrants in favor of such company upon the Treasury of the United States for the amount shown in such certificate as necessary to make good such guaranty. An amount sufficient to pay such warrants is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Upon application of the American Railway Express Company to the Commission, asking that during the guaranty period there may be advanced to it from time to time such sums, not in excess of the estimated amount necessary to make good the guaranty, as are necessary to enable it to meet its operating expenses, the Commission may certify to the Secretary of the Treasury the amount of, and times at which, such advances, if any, shall be made. The Secretary of the Treasury, on receipt of such certificate, is authorized and directed to make the advances in the amounts and at the times specified in the certificate, upon the execution by such company of a contract, secured in such manner as the Secretary may determine, that upon final determination of the amount of the guaranty provided for by this subdivision such company will repay to the United States any amounts which it has received from such advances in excess of the guaranty, with interest at the rate of 6 per centum per annum from the time such excess was paid. There is hereby appropriated out of any money in the Treasury not otherwise appropriated a sum sufficient to enable the Secretary of the Treasury to make the advances referred to in this subdivision. (Act Feb. 28, 1920, c. 91, Title II, § 209.)

Note.—§ 202 is now § 10169c.

§ 10169k. New loans to railroads.—(a) For the purpose of enabling carriers by railroad subject to the Interstate Commerce Act properly to serve the public during the transition period immediately following the termination of Federal control, any such carrier may, at any time after the passage of this Act, and before the expiration of two years after the termination

of Federal control make application to the commission for a loan from the United States to meet its maturing indebtedness, or to provide itself with the equipment or other additions and betterments, setting forth the amount of the loan; the term for which it is desired; the purpose of the loan and the use to which it will be applied; the present and prospective ability of the applicant to repay the loan and meet the requirements of its obligations in that regard; the character and value of the security offered; and the extent to which the public convenience and necessity will be served. The application shall be accompanied by statements showing such facts in detail as the commission may require with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for, and the ability of the applicant to make good the obligation as the commission may deem pertinent to the inquiry.

(b) If the commission, after such hearing and investigation, with or without notice, as it may direct, finds that the making, in whole or in part, of the proposed loan by the United States, for one or more of the aforesaid purposes, is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan the commission shall certify to the Secretary of the Treasury its findings of such facts; also the amount of the loan which is to be made; the time, not exceeding fifteen years from the making thereof, within which it is to be repaid; the terms and conditions of the loan, including the security to be given for repayment; that the prospective earning power of the applicant, together with the character and value of the security offered, furnish, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection to the United States; and that the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

(c) Upon receipt of such certificate from the commission the Secretary of the Treasury shall immediately, or as soon as practicable, make a loan of the amount recommended in such certificate out of any funds in the revolving fund provided for in this section and accept the security prescribed therefor by the commission. All such loans shall bear interest at the rate of 6 per centum per annum, payable semiannually, to the Secretary of the Treasury, and to be placed to the credit of said revolving fund. The form of obligation to be entered into shall be prescribed by the Secretary of the Treasury, but the time, not exceeding fifteen years from the making thereof, within which such loan is to be repaid, the security which is to be taken therefor, and the terms and the conditions of the loan shall be in accordance with the findings and the certificate of the commission.

(d) The commission or the Secretary of the Treasury may call upon the Federal Reserve Board for advice and assistance with respect to any such application or loan.

(e) There is hereby appropriated out of any moneys in the Treasury not otherwise appropriated the sum of \$300,000,000, which shall be used as a revolving fund for the purpose of making the loans provided for in this section, and for paying the judgments, decrees, and awards referred to in subdivision (e) of section 206.

(f) A carrier may issue evidence of indebtedness to the United States pursuant to this section without the authorization or approval of any authority, State or Federal, and without compliance with any requirement, State or Federal, as to notification.

The loans for equipment authorized by section 210, Transportation Act, 1920,—this section—may be made to or through such organization, car trust or other agency as may be determined upon or approved or organized for the purpose by the commission as most appropriate in the public interest for the construction, and sale or lease of equipment to carriers, upon such general terms as to security and payment or lease as provided in this

section or in subsections 11 and 13 of section 422 of the Transportation Act, 1920. (Acts Feb. 28, 1920, c. 91, § 210; June 5, 1920, c. 235, § 5.)

Note.—§ 206 is now § 10169g.

§ 10169l. Execution of powers of President.—All powers and duties conferred or imposed upon the President by the preceding sections of this Act, except the designation of the agent under section 206, may be executed by him through such agency or agencies as he may determine. (Act Feb. 25, 1920, c. 91, Title II, § 211.)

Note.—§ 206 is now § 10169g.

§ 10171a. Termination of Federal control of telegraphs and telephones.—Chapter 154 of the Acts of the second session of the Sixty-fifth Congress, being the joint resolution entitled "Joint resolution to authorize the President in time of war to supervise or take possession and assume control of any telegraph, telephone, marine cable, or radio system or systems, or any part thereof and to operate the same in such manner as may be needful or desirable for the duration of the war and to provide just compensation therefor," approved on the 16th day of July, 1918, be, and the same is hereby, repealed to take effect at midnight on the last day of the calendar month in which this Act is approved: Provided, however, That the existing toll and exchange telephone rates as established or approved by the Postmaster General on or prior to June 6, 1919, shall continue in force for a period not to exceed four months after this Act takes effect, unless sooner modified or changed by the public authorities—State, municipal, or otherwise—having control or jurisdiction of tolls, charges, and rates or by contract or by voluntary reduction.

The President be, and he is hereby, authorized and directed, at midnight on the last day of the calendar month in which this Act is approved, to return and deliver to the respective owners thereof all of the systems, lines, and property taken possession of or received, operated, supervised, or controlled by him under authority of said joint resolution.

The first proviso of said joint resolution prescribing the just compensation to be paid for and on account of said supervision, possession, control, or operation therein specified shall continue in full force and effect until such just compensation shall be fully adjusted and paid in the manner and according to the terms and conditions therein set forth.

Within ninety days after this Act shall take effect the President shall cause to be made to the Congress a detailed account and report of all his acts and proceedings in connection with the supervision, possession, control, and operation of the telephone, telegraph, and marine cable systems of the United States, and of all moneys received and expended, and all property and assets acquired or held, and all liabilities or obligations incurred, including contracts relative to compensation awards, such report to show in detail the financial results of the operation of each separate wire system from August 1, 1918, up to the date when the said systems shall have been returned. (Act July 11, 1919, c. 10, §§ 1-4.)

§ 10186. Control of distribution of foods, feeds, and fuels.—By reason of the existence of a state of war, it is essential to the national security and defense, for the successful prosecution of the war and for the support and maintenance of the Army and Navy, to assure an adequate supply and equitable distribution, and to facilitate the movement of foods, feeds, wearing apparel, containers primarily designed or intended for containing foods, feeds, or fertilizers; fuel, including fuel oil and natural gas, and fertilizer and fertilizer ingredients, tools, utensils, implements, machinery, and equipment required for the actual production of foods, feeds, and fuel, hereafter in this Act called necessities; to prevent, locally or generally, scarcity, monopolization, hoarding, injurious speculation, manipulation, and private controls affecting such supply, distribution, and movement; and to establish and maintain governmental control of such necessities during the war. For such purposes the instrumentalities, means, methods, powers, authorities, duties, obligations, and prohibitions hereinafter set forth are created, established, conferred, and prescribed. The President is authorized to make such regulations and to issue such orders as are essential effectively to carry out the provisions of this Act.

In carrying out the purposes of this Act the President is authorized to enter into any voluntary arrangements or agreements, to create and use any agency or agencies, to accept the services of any person without compensation, to cooperate with any agency or person, to utilize any department or agency of the Government, and to coordinate their activities so as to avoid any preventable loss or duplication of effort or funds.

No person acting either as a voluntary or paid agent or employee of the United States in any capacity, including an advisory capacity, shall solicit, induce, or attempt to induce any person or officer authorized to execute or to direct the execution of contracts on behalf of the United States to make any contract or give any order for the furnishing to the United States of work, labor, or services, or of materials, supplies, or other property of any kind or character, if such agent or employee has any pecuniary interest in such contract or order, or if he or any firm of which he is a member, or corporation, joint-stock company, or association of which he is an officer or stockholder, or in the pecuniary profits of which he is directly or indirectly interested, shall be a party thereto. Nor shall any agent or employee make, or permit any committee or other body of which he is a member to make, or participate in making, any recommendation concerning such contract or order to any council, board, or commission of the United States, or any member or subordinate thereof, without making to the best of his knowledge and belief a full and complete disclosure in writing to such council, board, commission, or subordinate of any and every pecuniary interest which he may have in such contract or order and of his interest in any firm, corporation, company, or association being a party thereto. Nor shall he participate in the awarding of such contract or giving such order. Any willful violation of any of the provisions of this section shall be punishable by a fine of not more than \$10,000, or by imprisonment of not more than five years, or both: Provided, That the provisions of this section shall not change, alter or repeal section forty-one of chapter three hundred and twenty-one, Thirty-fifth Statutes at Large.

It is hereby made unlawful for any person willfully to destroy any necessities for the purpose of enhancing the price or restricting the supply thereof; knowingly to commit waste or willfully to permit preventable deterioration of any necessities in or in connection with their production, manufacture, or distribution; to hoard, as defined in section 6 of this Act, any necessities; to monopolize or attempt to monopolize, either locally or generally, any necessities; to engage in any discriminatory and unfair, or any deceptive or wasteful practice or device, or to make any unjust or unreasonable rate or charge in handling or dealing in or with any necessities; to conspire, combine, agree, or arrange with any other person, (a) to limit the facilities for transporting, producing, harvesting, manufacturing, supplying, storing, or dealing in any necessities; (b) to restrict the supply of any necessities; (c) to restrict distribution of any necessities; (d) to prevent, limit, or lessen the manufacture or production of any necessities in order to enhance the price thereof; or (e) to exact excessive prices for any necessities, or to aid or abet the doing of any act made unlawful by this section. Any person violating any of the provisions of this section upon conviction thereof shall be fined not exceeding \$5,000 or be imprisoned for not more than two years, or both: Provided, That this section shall not apply to any farmer, gardener, horticulturist, vineyardist, planter, ranchman, dairyman, stockman, or other agriculturist, with respect to the farm products produced or raised upon land owned, leased, or cultivated by him: Provided further, That nothing in this Act shall be construed to forbid or make unlawful collective bargaining by any cooperative association or other association of farmers, dairymen, gardeners, or other producers of farm products with respect to the farm products produced or raised by its members upon land owned, leased, or cultivated by them. (Acts Aug. 10, 1917, c. 53, §§ 1-4, 40 Stat. 276; Oct. 22, 1919, c. 80, § 1.)

§ 10188. Hoarding necessities; interference with production or distribution.

Note.—This and former section 10189 in Barnes' Federal Code, were repealed by Act Oct. 22, c. 80, § 3, but "any offense committed in violation of said sections," "prior to the passage of this Act, may be prosecuted and the penalties prescribed therein enforced in the same manner and with the same effect as if this Act had not been passed."

§ 10189. Sugar Equalization Board.—The President is authorized to continue during the year ending December 31, 1920, the United States Sugar Equalization Board (Incorporated), a corporation organized under the laws of the State of Delaware, and to vote or use the stock in such corporation held by him for the benefit of the United States, or otherwise exercise his control over the corporation and its directors, in such a manner as to authorize and require them to adopt and carry out until December 31, 1920, plans and methods of securing, if found necessary for the public good, an adequate supply and an equitable distribution of sugar at a fair and reasonable price to the people of the United States. Sections 5 and 10 of the Act entitled "An Act to further provide for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel," approved August 10, 1917, as far as the same relates to raw or refined sugar, syrups, or molasses, are hereby continued in full force and effect until December 31, 1920, notwithstanding the provisions of section 24 of said Act: Provided, That the provisions of this Act shall expire as to the domestic product June 30, 1920: And provided further, That the zone system of sale and distribution of sugars heretofore established by the said United States Sugar Equalization Board shall be abolished and shall not be reestablished or maintained, and that sugars shall be permitted to be sold and to circulate freely in every portion of the United States. The termination of this Act shall not affect any act done, or any right or obligation accruing or accrued, or any suit or proceeding had or commenced in any civil case before the said termination pursuant to this Act; but all rights and liabilities under this Act arising before its termination shall continue and may be enforced in the same manner as if the Act had not terminated. Any offense committed and all penalties, forfeitures, or liabilities incurred prior to such termination may be prosecuted or punished in the same manner and with the same effect as if this Act had not been terminated. (Act Dec. 31, 1919, c. 33.)

Note.—See note to § 10188.

§ 10193a. Protection of United States under its price guaranties to wheat producers; methods and agencies established therefor.—By reason of the emergency growing out of the war with Germany and in order to carry out the guaranties made to producers of wheat of the crops of nineteen hundred and eighteen and nineteen hundred and nineteen by the two proclamations of the President of the United States dated, respectively, the twenty-first day of February, nineteen hundred and eighteen, and the second day of September, nineteen hundred and eighteen, pursuant to section fourteen of "An Act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel," approved August tenth, nineteen hundred and seventeen, and to protect the United States against undue enhancement of its liabilities under said guaranties, the instrumentalities, means, methods, power, authorities, duties, obligations, and prohibitions hereinafter set forth are created, established, conferred, and prescribed. (Act March 4, 1919, c. 125, § 1.)

§ 10193b. Same: executive orders and regulations.—In carrying out the provisions of this Act, the President is authorized to make such regulations and issue such orders as may be necessary, to enter into any voluntary arrangements or agreements, to use any existing agency or agencies, to accept the services of any person without compensation, to cooperate with any agency or person, to utilize any department or agency of the Government, including the Food Administration Grain Corporation, and to coordinate their activities so as to avoid any preventable loss or duplication of efforts or funds. (Act March 4, 1919, c. 125, § 2.)

§ 10193c. Purchase by President of wheat and flour; storage and transportation; protection and compensation of dealers and others.—Whenever the President shall find it essential, in order to carry out the guaranties aforesaid or to protect the United States against undue enhancement of its liabilities thereunder, he is authorized to buy, or contract for the purchase of, wheat of said crops of nineteen hundred and eighteen and nineteen hundred and nineteen at the places designated for the delivery of the same by the President's proclamations or such other places as he may designate,

for cash at the said guaranteed prices and he is authorized thereafter to buy or contract for the purchase of, for cash, or sell, consign, or contract for the sale of, for cash or on credit, wheat of the said crops of nineteen hundred and eighteen and nineteen hundred and nineteen and flour produced therefrom at the said guaranteed prices or at such other prices and on such terms or conditions as may be necessary to carry out the purposes of this Act and to enable the people of the United States to purchase wheat products at a reasonable price; to make reasonable compensation for handling, transportation, insurance, and other charges with respect to wheat and wheat flour of said crops, and for storage thereof in elevators, on farms, and elsewhere; to take such steps, to make such arrangements, and to adopt such methods as may be necessary to maintain and assure an adequate and continuous flow of wheat and wheat flour in the channels of trade, including the protection or indemnification of millers, wholesalers, jobbers, bakers, and retail merchants who purchase in carload lots against actual loss by them on account of abnormal fluctuations in the price of wheat and wheat flour of said crops due to the action of the Government; to borrow such sums of money as may be secured by the property or other assets acquired under this Act; to lease and utilize storage facilities for, and to store, such wheat and wheat flour; and to requisition storage facilities therefor. He shall ascertain and pay a just compensation for facilities so requisitioned. If the compensation so ascertained by the President be not satisfactory to the person entitled to receive the same, such person shall be paid seventy-five per centum of such amount and shall be entitled to sue the United States to recover such further sum as, added to said seventy-five per centum, will make up such amount as will be just compensation for such facilities; and jurisdiction is hereby conferred on the United States district courts to hear and determine all such controversies. (Act March 4, 1919, c. 125, § 3.)

§ 10193d. Control of wheat exchanges, boards of trade, clearing houses, and market conditions generally.—Whenever the President shall find that operations, practices, or transactions, at, on, in, or under the rules of any exchange, board of trade, or similar institution or place of business cause or are likely to cause unjust market manipulation, or unfair and misleading market quotations, or undue depression or fluctuation of the prices of, or injurious speculation in, wheat or wheat flour, hereafter in this section called evil practices, calculated or likely to enhance unduly the liabilities of the United States under the said guaranties, he is authorized to prescribe such regulations governing, or may either wholly or partly prohibit, operations, practices, and transactions in wheat or wheat flour at, or in, or under the rules of any exchange, board of trade, or similar institution or place of business as he may find essential in order to prevent, correct, or remove such evil practices. Such regulations may require all persons coming within their provisions to keep such records and statements of account, and may require such persons to make such returns, verified under oath or otherwise, as will fully and correctly disclose all transactions in wheat or wheat flour at, in, on, or under the rules of any such exchange, board of trade, or similar institution or place of business, including the making, execution, settlement, and fulfillment thereof. He may also require all persons acting in the capacity of a clearing house, clearing association, or similar institution, for the purpose of clearing, settling, or adjusting transactions in wheat or wheat flour at, in, on, or under the rules of any such exchange, board of trade, or similar institution or place of business, to keep such records and to make such returns as will fully and correctly disclose all facts in their possession relating to such transactions, and he may appoint agents to conduct all investigations necessary to enforce the provisions of this section and all regulations made by him in pursuance thereof, and may fix and pay the compensation of such agents. Any person who intentionally and willfully violates any regulation made pursuant to this section, or who knowingly engages in any operation, practice, or transaction prohibited pursuant to this section, or who intentionally and willfully aids or abets in such violation, or any such prohibited operation, practice, or transaction, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be punished by a fine not exceeding \$1,000. The President shall take seasonable steps to provide for and to permit the establishment of a

free and open market for the purchase, sale, and handling of wheat and wheat products upon the expiration of this Act. (Act March 4, 1919, c. 125, § 4).

§ 10193e. Licensing of persons handling or dealing in wheat and its products; correction of evil practices or unreasonable rates.—From time to time, whenever the President shall find it essential to license any business of importation, exportation, manufacture, storage, or distribution of wheat or wheat flour in order to carry into effect any of the purposes of this Act, and shall publicly so announce: Provided, That as between the two articles mentioned preference shall be given to the exportation of flour, except when the public interest would, in the judgment of the President, be injuriously affected thereby, no person shall, after a date fixed in the announcement, engage in or carry on any such business specified in the announcement unless he shall secure and hold a license issued pursuant to this section. The regulations prescribed pursuant to this Act may include requirements with respect to the issuance of licenses, systems of accounts, and the auditing of accounts to be kept by licensees, submission of reports by them, with or without oath or affirmation, and the entry and inspection by the President's duly authorized agents of the places of business of licensees. It shall be unlawful for any licensee to engage in any unfairly discriminatory or deceptive practice or device, or to make any unjust or unreasonable rate, commission, or charge, or to exact an unreasonable profit or price, in handling or dealing in or with wheat, wheat flour, bran, and shorts. Whenever the President shall find that any practice, device, rate, commission, charge, profit, or price of any licensee is unfairly discriminatory, deceptive, unjust, or unreasonable, and shall order such licensee, within a reasonable time fixed in the order, to discontinue the same, unless such order, which shall recite the facts found, is revoked or suspended, such licensee shall, within the time prescribed in the order, discontinue such unfairly discriminatory, deceptive, unjust, or unreasonable practice, device, rate, commission, charge, profit, or price. The President may, in lieu of any such unfairly discriminatory, deceptive, unjust, or unreasonable practice, device, rate, commission, charge, profit, or price, find what is a fair, just, or reasonable practice, device, rate, commission, charge, profit, or price, and in any proceeding brought in any court such order of the President shall be prima facie evidence. Any person who, without a license issued pursuant to this section, or whose license shall have been suspended or revoked after opportunity to be heard has been afforded him, intentionally and knowingly engages in or carries on any business for which a license is required under this section, or intentionally and willfully fails or refuses to discontinue any unfairly discriminatory, deceptive, unjust, or unreasonable practice, device, rate, commission, charge, profit, or price, in accordance with the requirement of an order issued under this section, or intentionally and willfully violates any regulation prescribed under this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof be punished by a fine not exceeding \$1,000: Provided, That this section shall not apply to any farmer or cooperative association of farmers or other person with respect to the products of any farm or other land owned, leased, or cultivated by him, nor to any common carrier. (Act March 4, 1919, c. 125, § 5.)

§ 10193f. Regulation of importation and exportation of wheat and its products; levy of special duties.—Whenever the President shall find it essential in carrying out the guaranties aforesaid, or to protect the United States against undue enhancement of its liabilities thereunder, and shall make proclamation thereof, it shall be unlawful to import into the United States from any country named in such proclamation, or to export from or ship from or take out of the United States to any country named in such proclamation, wheat, semolina, or wheat flour, except at such time or times, and under such regulations or orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress: Provided, That no preference shall be given to the ports of one State over those of another. Any person who shall import, export, ship, or take out of the United States, or attempt to import, export, ship, or take out of the United States, any wheat, semolina, or wheat flour in violation of this section or of any regulation or order made

hereunder, shall be deemed guilty of a misdemeanor, and, upon conviction thereof be punished by a fine not exceeding \$1,000: Provided further, That when the President finds that the importation into the United States of any wheat, semolina, or wheat flour produced outside of the United States materially enhances or is likely materially to enhance the liabilities of the United States under guaranties of prices therefor made pursuant to law, and ascertains what rate of duty, added to the then existing rate of duty on wheat and to the value of wheat, semolina, or wheat flour at the time of importation, would be sufficient to bring the price thereof at which imported up to the price fixed or prevailing under the direction of the President under or pursuant to this Act, he shall proclaim such facts, and thereafter there shall be levied, collected, and paid upon wheat, semolina, or wheat flour when imported in addition to the then existing rate of duty the rate of duty so ascertained; but in no case shall any such rate of duty be fixed at an amount which will effect a reduction of the rate of duty upon wheat, semolina, or wheat flour under any then existing tariff law of the United States. (Act March 4, 1919, c. 125, § 6.)

Note.—The further provisions of section 6 cited are incorporated in §§ 5484, 5488, herein.

§ 10193g. Offenses and penalties under Act.—Any person who intentionally and knowingly makes any false statement or representation to any officer, agent, or employee of the United States engaged in the performance of any duty under this Act, or falsely represents to any of said persons that the wheat he offers for sale was grown as a part of the nineteen hundred and eighteen or nineteen hundred and nineteen crops for the purpose of securing any of the benefits of the aforesaid guaranties, or any person who willfully assaults, resists, impedes, or interferes with any officer, agent, or employee of the United States in the execution of any duty authorized to be performed by or pursuant to this Act, or any person who intentionally and knowingly violates any regulation issued pursuant to this Act, except as otherwise made punishable in this Act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$1,000. (Act March 4, 1919, c. 125, § 7.)

§ 10193h. Moneys and funds for execution of Act and fulfillment of price guaranties.—For carrying out the aforesaid guaranties and otherwise for the purpose of this Act, there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be available during the time this Act is in effect, the sum of \$1,000,000,000, of which not to exceed \$3,000,000 may be used for such administrative expenses, including the payment of such rent, the expense, including postage, of such printing and publications, the purchase of such material and equipment, and the employment, of such persons and means, in the District of Columbia and elsewhere, as the President may deem essential. Any moneys received by the United States from or in connection with the disposal by the United States of wheat or wheat flour under this Act may, in the discretion of the President, be used as a revolving fund for further carrying out the purposes of this Act. Any balance of such moneys not used as part of such revolving fund shall be covered into the Treasury as miscellaneous receipts: Provided, That no part of this appropriation shall be used to pay rent in the District of Columbia. (Act March 4, 1919, c. 125, § 8.)

§ 10193i. Official statements and reports required hereunder.—An itemized statement, covering all receipts and disbursements under this Act, shall be filed with the Secretary of the Senate and the Clerk of the House of Representatives on or before the twenty-fifth day of each month after the taking effect of this Act, covering the business of the preceding month, and such statement shall be subject to public inspection. Not later than the expiration of sixty days after this Act shall cease to be in effect the President shall cause a detailed report to be made to the Congress of all proceedings had under this Act. Such reports shall, in addition to other matters, contain an account of all persons appointed or employed, the salary or compensation paid or allowed each, the aggregate amount of the different kinds of property purchased or requisitioned, the use and disposition made of such property, and a statement of all receipts and expenditures, together with a statement showing the general character and

estimated value of all property then on hand, and the aggregate amount and character of all claims against the United States growing out of the Act. (Act March 4, 1919, c. 125, § 9.)

§ 10193j. Definitions; dual liability of employer and employee.—Words used in this Act shall be construed to import the plural or singular, as the case demands; the word "person," wherever used in this Act, shall include individuals, partnerships, associations, and corporations. When construing and enforcing the provisions of this Act, the act, omission, or failure of any official, agent, or other person acting for or employed by any individual, partnership, association, or corporation, within the scope of his employment or office, shall in every case also be deemed the act, omission, or failure of such individual, partnership, association, or corporation, as well as that of the person. (Act March 4, 1919, c. 125, § 10.)

§ 10193k. Period of operation of statute; effect of termination.—The provisions of this Act shall cease to be in effect whenever the President shall find that the emergency growing out of the war with Germany has passed and that the further execution of the provision of this Act is no longer necessary for its purposes, the date of which termination shall be ascertained and proclaimed by the President; but the date when this Act shall cease to be in effect shall not be later than the first day of June, nineteen hundred and twenty: Provided, That after June first, nineteen hundred and twenty, neither the President nor any agency acting for him shall purchase or contract for the purchase of wheat or flour. The termination of this Act shall not affect any act done, or any right or obligation accruing or accrued, or any suit or proceeding had or commenced in any civil case before the said termination pursuant to this Act; but all rights and liabilities under this Act arising before its termination shall continue and may be enforced in the same manner as if the Act had not terminated. Any offense committed and all penalties or liabilities incurred prior to such termination may be prosecuted or punished in the same manner and with the same effect as if this Act had not been terminated. (Act March 4, 1919, c. 125, § 11.)

§ 10209. Rights in property transferred to custodian.—(a) Any person not an enemy or ally of enemy claiming any interest, right, or title in any money or other property which may have been conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States, or to whom any debt may be owing from an enemy or ally of enemy whose property or any part thereof shall have been conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States may file with the said custodian a notice of his claim under oath and in such form and containing such particulars as the said custodian shall require; and the President, if application is made therefor by the claimant, may order the payment, conveyance, transfer, assignment, or delivery to said claimant of the money or other property so held by the Alien Property Custodian or by the Treasurer of the United States, or of the interest therein to which the President shall determine said claimant is entitled: Provided, That no such order by the President shall bar any person from the prosecution of any suit at law or in equity against the claimant to establish any right, title, or interest which he may have in such money or other property. If the President shall not so order within sixty days after the filing of such application or if the claimant shall have filed the notice as above required and shall have made no application to the President, said claimant may, at any time before the expiration of six months after the end of the war institute a suit in equity in the Supreme Court of the District of Columbia or in the district court of the United States for the district in which such claimant resides, or, if a corporation, where it has its principal place of business (to which suit the Alien Property Custodian or the Treasurer of the United States, as the case may be, shall be made a party defendant). To establish the interest, right, title, or debt so claimed, and if so established the court shall order the payment, conveyance, transfer, assignment, or delivery to said claimant of the money or other property so held by the Alien Property Custodian or by the Treasurer of the United States or the interest therein to which the court shall determine said claimant is entitled.

If suit shall be so instituted, then such money or property shall be retained in the custody of the Alien Property Custodian, or in the Treasury of the United States, as provided in this Act, and until any final judgment or decree which shall be entered in favor of the claimant shall be fully satisfied by payment or conveyance, transfer, assignment, or delivery by the defendant, or by the Alien Property Custodian, or Treasurer of the United States on order of the court, or until final judgment or decree shall be entered against the claimant or suit otherwise terminated.

(b) In respect of all money or other property conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States, if the President shall determine that the owner thereof at the time such money or other property was required to be so conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or at the time when it was voluntarily delivered to him or was seized by him was—

(1) A citizen or subject of any nation or State or free city other than Germany or Austria or Hungary or Austria-Hungary, and is at the time of the return of such money or other property hereunder a citizen or subject of any such nation or State or free city; or

(2) A woman who at the time of her marriage was a subject or citizen of a nation which has remained neutral in the war, or of a nation which was associated with the United States in the prosecution of said war, and who prior to April 6, 1917, intermarried with a subject or citizen of Germany or Austria-Hungary and that the money or other property concerned was not acquired by such woman either directly or indirectly from any subject or citizen of Germany or Austria-Hungary; or

(3) A woman who at the time of her marriage was a citizen of the United States (said citizenship having been acquired by birth in the United States), and who prior to April 6, 1917, intermarried with a subject or citizen of Germany or Austria-Hungary, and that the money or other property concerned was not acquired by such woman either directly or indirectly from any subject or citizen of Germany or Austria-Hungary; or

(4) A citizen or subject of Germany or Austria or Hungary or Austria-Hungary and was, at the time of the severance of diplomatic relations between the United States and such nations, respectively, accredited to the United States as a diplomatic or consular officer of any such nation, or the wife or minor child of such officer, and that the money or other property concerned was within the territory of the United States by reason of the service of such officer in such capacity; or

(5) A citizen or subject of Germany or Austria-Hungary, who by virtue of the provisions of sections 4067, 4068, 4069, and 4070 of the Revised Statutes, and of the proclamations and regulations thereunder, was transferred, after arrest, into the custody of the War Department of the United States for detention during the war and is at the time of the return of his money or other property hereunder living within the United States; or

(6) A partnership, association, or other unincorporated body of individuals outside the United States, or a corporation incorporated within any country other than the United States, and was entirely owned at such time by subjects or citizens of nations, States, or free cities other than Germany or Austria or Hungary or Austria-Hungary and is so owned at the time of the return of its money or other property hereunder; or

(7) The Government of Bulgaria or Turkey, or any political or municipal subdivision thereof; or

(8) The Government of Germany or Austria or Hungary or Austria-Hungary, and that the money or other property concerned was the diplomatic or consular property of such Government—then the President, without any application being made therefor, may order the payment, conveyance, transfer, assignment, or delivery of such money or other property held by the Alien Property Custodian or by the Treasurer of the United States, or of the interest therein to which the President shall determine such person entitled, either to the said owner or to the person by whom said property was conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian: Provided, That no person shall be deemed or held to be a citizen or subject of Germany or Austria or Hungary or Austria-Hungary for the purposes of this section, even though he was such citizen or subject at the time first specified in this subsection, if he

has become or shall be come, ipso facto or through exercise of option, a citizen or subject of any nation or State or free city other than Germany, Austria, or Hungary, (first) under the terms of such treaties of peace as have been or may be concluded subsequent to November 11, 1918, between Germany or Austria or Hungary (of the one part) and the United States and/or three or more of the following-named powers: The British Empire, France, Italy, and Japan (of the other part), or (second) under the terms of such treaties as have been or may be concluded in pursuance of the treaties of peace aforesaid between any nation, State, or free city (of the one part) whose territories, in whole or in part, on August 4, 1914, formed a portion of the territory of Germany or Austria-Hungary and the United States and/or three or more of the following-named powers: The British Empire, France, Italy, and Japan (of the other part). For the purposes of this section any citizen or subject of a State or free city which at the time of the proposed return of money or other property of such citizen or subject hereunder forms a part of the territory of any one of the following nations: Germany, Austria, or Hungary, shall be deemed to be a citizen or subject of such nation. And the receipt of the said owner or of the person by whom said property was conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian shall be a full acquittance and discharge of the Alien Property Custodian or the Treasurer of the United States, as the case may be, and of the United States in respect to all claims of all persons heretofore or hereafter claiming any right, title, or interest in said property, or compensation or damages arising from the capture of such property by the President or the Alien Property Custodian: Provided further, however, That except as herein provided no such action by the President shall bar any person from the prosecution of any suit at law or in equity to establish any right, title, or interest which he may have therein.

(c) Any person whose property the President is authorized to return under the provisions of subsection (b) hereof may file notice of claim for the return of such property, as provided in subsection (a) hereof, and thereafter may make application to the President for allowance of such claim and/or may institute suit in equity to recover such property, as provided in said subsection, and with like effect. The President or the court, as the case may be, may make the same determinations with respect to citizenship and other relevant facts that the President is authorized to make under the provisions of subsection (b) hereof.

(d) Whenever a person, deceased, would have been entitled, if living, to the return of his money or other property hereunder, then his legal representative may proceed for the return of such property as provided in subsection (a) hereof: Provided, however, That the President or the court, as the case may be, before granting such relief shall impose such conditions by way of security or otherwise, as the President or the court, respectively, shall deem sufficient to insure that such legal representative will redeliver to the Alien Property Custodian such portion of the money or other property so received by him as shall be distributable to any person not eligible as a claimant under subsections (a) or (c) hereof.

(e) No money or other property shall be returned nor any debt allowed under this section to any person who is a citizen or subject of any nation which was associated with the United States in the prosecution of the war, unless such nation in like case extends reciprocal rights to citizens of the United States; nor in any event shall a debt be allowed under this section unless it was owing to and owned by the claimant prior to October 6, 1917, and as to claimants other than citizens of the United States unless it arose with reference to the money or other property held by the Alien Property Custodian or Treasurer of the United States hereunder.

(f) Except as herein provided, the money or other property conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian, shall not be liable to lien, attachment, garnishment, trustee process, or execution, or subject to any order or decree of any court.

(g) This section shall not apply, however, to money paid to the Alien Property Custodian under section 10 hereof. (Acts Oct. 6, 1917, c. 106, § 9, 40 Stat. 419; July 11, 1919, c. 6, § 1; June 5, 1920, c. 241.)

Note.—§ 10, so referred to, is § 10210, Barnes' Federal Code.

CHAPTER 4.

SELECTIVE SERVICE LAW.

§ 10227. Qualifications and conditions of voluntary enlistments.

Note 1.—Act Feb. 28, 1919, c. 79, provides the provisions of this section are repealed to the extent that they "impose restrictions upon enlistments in the Regular Army," "in so far as they apply to enlistments and reenlistments in the Regular Army after the date of approval of this Act: Provided, That from and after the approval of this Act, one-third of the enlistments in the Regular Army of the United States shall be for a period of one year, and the remaining two-thirds thereof shall be for the period of three years. Any person enlisting under the provisions of this Act shall not be required to serve with the reserves. The pay of the men enlisted hereunder shall be the same as that provided by the Act entitled 'An Act to Authorize the President to increase temporarily the Military Establishment of the United States,' approved May 18, 1917: Provided further, That after the expiration of one year those enlisting for the period of three years may be discharged in the discretion of the Secretary of War under such rules and regulations as may be prescribed by him after one year of service."

Note 2.—Res. Sept. 29, 1919, No. 14, c. 70, provides "those enlisted men of the Army who enlisted in the Regular Army prior to April 2, 1917, and who have accepted or may accept their discharge from such enlistment in order to reenlist under the terms of the Act entitled 'An Act to authorize the resumption of voluntary enlistment in the Regular Army, and for other purposes,' approved February 28, 1919, shall upon such discharge receive travel pay at the rate provided in the Act entitled 'An Act permitting any person who served in the United States Army, Navy, or Marine Corps in the present war to retain his uniform and personal equipment, and to wear the same under certain conditions,' approved February 28, 1919, from the place of such discharge to their actual bona fide home or residence or original muster into the service, as they may elect. The Secretary of War is authorized to discharge any or all of these men enlisted prior to April 2, 1917, who desire discharge from their old enlistment for the purpose of so reenlisting, regardless of whether or not the period of their original contract or enlistment has been completed: Provided, That in case any enlisted man has been or hereafter shall be discharged for the purpose of reenlisting in the Regular Army, he shall be entitled to the payment of \$60 as provided in section 1406 of the Act entitled 'An Act to provide revenue, and for other purposes,' approved February 24, 1919."

§ 10231. Pay and pension for officers and enlisted men.

Note.—Act July 11, 1919, c. 8, § 1, provides that the provisions of this section "in so far as it increases the pay of the enlisted men of the Army, be, and the same hereby are, continued in force and effect from and after the date and approval of this Act."

CHAPTER 5.

WAR RISK INSURANCE.

ARTICLE I.—GENERAL PROVISIONS.

§ 10248a. Offices abolished.—The office of the Commissioner of Military and Naval Insurance and the office of the Commissioner of Marine and Seamen's Insurance created by the War Risk Insurance Act are hereby abolished and the powers and duties pertaining to such offices are hereby transferred to the Director of the Bureau of War Risk Insurance, who shall hereafter receive a salary at the rate of \$7,500 per annum. Until such time as the Secretary of the Treasury may direct otherwise, and subject to the provisions of section 9 of the War Risk Insurance Act, there shall be in the Bureau of War Risk Insurance a Division of Marine and Seamen's Insurance and a Division of Military and Naval Insurance. All laws inconsistent with this section are hereby so modified as to conform to the provisions hereof. (Act Dec. 24, 1919, c. 16, § 1.)

§ 10260. Appropriations for bureau expenses.

Note.—By Act March 1, 1919, c. 86, § 1, making appropriation for expenses of the Bureau of War Risk Insurance, provides that "all employees appropriated for by this paragraph shall be engaged exclusively on the work of the Bureau of War Risk Insurance during the fiscal year 1920."

§ 10273. Proof of marriage; presumption; illicit cohabitation; definition of terms.—For the purpose of this amendatory Act the marriage of the claimant to the person on account of whom the claim is made shall be shown—

- (1) By a duly verified copy of a public or church record; or
- (2) By the affidavit of the clergyman or magistrate who officiated; or
- (3) By the testimony of two or more eyewitnesses to the ceremony; or
- (4) By the duly verified copy of the church record of baptism of the children; or

(5) By the testimony of two or more witnesses who know that the parties lived together as husband and wife, and were recognized as such, and who shall state how long, within their knowledge, such relation continued: Provided, That marriages, except such as are mentioned in section forty-seven hundred and five of the Revised Statutes, shall be proven in compensation or insurance cases to be legal marriages according to the law of the place where the parties resided at the time of marriage or at the time when the right to compensation or insurance accrued; and the open and notorious illicit cohabitation of a widow who is a claimant shall operate to terminate her right to compensation or insurance from the commencement of such cohabitation: Provided further, That for the purpose of the administration of Article II of this Act marriage shall be conclusively presumed, in the absence of proof, that there is a legal spouse living, if the man and woman have lived together in the openly acknowledged relation of husband and wife during the two years immediately preceding the date of the declaration of war, or the date of enlistment or of entrance into or employment in active service in the military or naval forces of the United States if subsequent to such declaration.

In Articles II, III, and IV of this Act unless the context otherwise requires—

- (1) The term "child" includes—
 - (a) A legitimate child.
 - (b) A child legally adopted.
 - (c) A stepchild, if a member of the man's household.
 - (d) An illegitimate child, but, as to the father only, if acknowledged in writing signed by him, or if he has been judicially ordered or decreed to contribute to such child's support, or has been judicially decreed to be the putative father of such child, and if such child, if born after December thirty-first, nineteen hundred and seventeen, shall have been born in the United States, or in its insular possessions.

(2) The term "grandchild" means a child as above defined of a child as above defined.

(3) Except as used in section four hundred and one and in section four hundred and two the terms "child" and "grandchild" are limited to unmarried persons either (a) under eighteen years of age, or (b) of any age, if insane, idiotic, or otherwise permanently helpless.

(4) The term "parent" includes a father, mother, grandfather, grandmother, father through adoption, mother through adoption, stepfather, and stepmother, either of the person in the service or of the spouse.

(4a) The terms "father" and "mother" include stepfathers and stepmothers, fathers and mothers through adoption, and persons who have stood in loco parentis to a member of the military or naval forces at any time prior to his enlistment or induction for a period of not less than one year: Provided, That this subdivision shall be deemed to be in effect as of October 6, 1917.

(5) The terms "brother" and "sister" include brothers and sisters of the half blood as well as those of the whole blood, stepbrothers and stepsisters, and brothers and sisters through adoption.

(5a) The terms "brother" and "sister" include the children of a person who, for a period of not less than one year, stood in loco parentis to a member of the military or naval forces of the United States at any time prior to his enlistment or induction, or another member of the same household as to whom such person during such period likewise stood in loco parentis: Provided, That this subdivision shall be deemed to be in effect as of October 6, 1917.

(6) The term "commissioned officer" includes a warrant officer, but includes only an officer in active service in the military or naval forces of the United States.

(7) The terms "man" and "enlisted man" mean a person, whether male or female, and whether enlisted, enrolled, or drafted into active service in the military or naval forces of the United States, and include noncommissioned and petty officers, and members of training camps authorized by law.

(8) The term "enlistment" includes voluntary enlistment, draft, and enrollment in active service in the military or naval forces of the United States.

(9) The term "commissioner" means the Commissioner of Military and Naval Insurance.

(10) The term "injury" includes disease.

(11) The term "pay" means the pay for service in the United States according to grade and length of service, excluding all allowances.

(12) The term "military or naval forces" means the Army, the Navy, the Marine Corps, the Coast Guard, the Naval Reserves, the National Naval Volunteers, and any other branch of the United States service while serving pursuant to law with the Army or the Navy. (Act Sept. 2, 1914, c. 293, § 22, as added by Acts Oct. 6, 1917, c. 105, § 2, 40 Stat. 400; June 25, 1918, c. 104, § 1, 40 Stat. 609; Dec. 24, 1919, c. 16, §§ 2-4.)

Note.—§§ 401, 402, so referred to, are §§ 10307, 10309, Barnes' Federal Code.

§ 10274. **Payments to guardians and curators; persons insane.**—When, by the terms of this amendatory Act, any payment is to be made to a minor, other than a person in the military or naval forces of the United States, or to a person mentally incompetent, such payment shall be made to the person who is constituted guardian or curator by the laws of the State or residence of claimant, or is otherwise legally vested with responsibility or care of the claimant.

If any person entitled to receive payments under this Act shall be an inmate of any asylum or hospital for the insane maintained by the United States, or by any of the several States or Territories of the United States, or any political subdivision thereof, and no guardian or curator of the property of such person shall have been appointed by competent legal authority, the director, if satisfied after due investigation that any such person is mentally incompetent, may order that all moneys payable to him or her under this Act shall be held in the Treasury of the United States to the credit of such person. All funds so held shall be disbursed under the order of the director and subject to his discretion, either to the chief executive officer of the asylum or hospital in which such person is an inmate, to be used by such officer for the maintenance and comfort of such inmate, subject to the duty to account to the Bureau of War Risk Insurance and to repay any surplus at any time remaining in his hands in accordance with regulations to be prescribed by the director; or to the wife (or dependent husband if the inmate is a woman), minor children, and dependent parents of such inmate, in such amounts as the director shall find necessary for their support and maintenance, in the order named; or, if at any time such inmate shall be found to be mentally competent, or shall die, or a guardian or curator of his or her estate be appointed, any balance remaining to the credit of such inmate shall be paid to such inmate, if mentally competent, and otherwise to his or her guardian, curator or personal representatives. (Act Sept. 2, 1914, c. 293, § 23, as added by Acts Oct. 6, 1917, c. 105, § 2, 40 Stat. 402; Dec. 24, 1919, c. 16, § 5.)

§ 10279. Assignment of claims.

Note.—Act Dec. 24, 1919, c. 16, § 6, provides that this section "shall not be construed to prohibit the assignment by any person to whom converted insurance shall be payable under Article IV of such Act of his interest in such insurance to any other member of the permitted class of beneficiaries."

ARTICLE II.—ALLOTMENTS AND FAMILY ALLOWANCES.

§ 10285. **Family allowances.**—A family allowance of not exceeding \$50 per month shall be granted and paid by the United States upon written application to the bureau by such enlisted man or by or on behalf of any prospective beneficiary, in accordance with and subject to the conditions, limitations, and exceptions hereinafter specified.

The family allowance shall be paid from the time of enlistment to death in or one month after discharge from the service, but not for more than four months after the termination of the present war emergency. No family allowance shall be made for any period preceding November 1, 1917. The payment shall be subject to such regulations as may be prescribed relative to cases of desertion and imprisonment and of missing men.

Class A. In the case of a man to his wife (including a former divorced) and to his child or children—

- (a) If there is a wife but no child, \$15;
- (b) If there is a wife and one child, \$25;
- (c) If there is a wife and two children, \$32.50, with \$5 per month additional for each additional child;
- (d) If there is no wife, but one child, \$5;
- (e) If there is no wife, but two children, \$12.50;
- (f) If there is no wife, but three children, \$20;
- (g) If there is no wife, but four children, \$30, with \$5 per month additional for each additional child;
- (h) If there is a former wife divorced who has not remarried and to whom alimony has been decreed, \$15.

Class B. In the case of a man or woman to a grandchild, a parent, brother, or sister—

- (a) If there is one parent, \$10;
- (b) If there are two parents, \$20;
- (c) If there is a grandchild, brother, sister, or additional parent, \$5 for each.

In the case of a woman, the family allowances for a husband and children shall be in the same amounts, respectively, as are payable in the case of a man, to a wife and children, provided she makes a voluntary allotment of \$15 as a basis—therefor, and provided, further, that dependency exists as required in section two hundred and six. (Act Sept. 2, 1914, c. 239, § 204, as added by Acts Oct. 6, 1917, c. 105, § 2, 40 Stat. 403; June 25, 1918, c. 104, § 6, 40 Stat. 609; Dec. 24, 1919, c. 16, § 8.)

Note 1.—This section as amended took effect July 1, 1918. Act June 25, 1918, c. 104, § 9, 40 Stat.

Note 2.—§ 206, so referred to, is § 10287, Barnes' Federal Code.

§ 10290a. Resumption of payment of allotments where discontinued.—In all of those cases in which an authority of allotment by an enlisted man directing the payment of an indicated amount to a designated beneficiary is on file in the Bureau of War Risk Insurance, and payments pursuant to this authority had been made by said bureau prior to July first, nineteen hundred and eighteen, but which payments were discontinued as of that date, the War and Navy Departments are directed to resume the payments of allotments in these cases, pursuant to the authority on file as aforesaid, pending the receipt of a new authority, or of a written rescission of the old authority from the enlisted men. In those cases in which pending the receipt of the new authority, the military authorities, beginning with July first, nineteen hundred and eighteen, have reserved from month to month out of the soldier's monthly accruing pay, the amount directed to be paid by the original authority of allotment, the War and Navy Departments, upon resuming the payment of allotments in such cases, under the authority of this Act, shall pay all arrearages out of these respective reservations. (Act Feb. 28, 1919, c. 82.)

§ 10291. Award by commissioner as basis for allotments and allowances.—Upon receipt of any application for family allowance, the commissioner shall make all proper investigations and shall make an award, on the basis of which award the amount of the allotments to be made by the man shall be certified to the War Department or Navy Department, as may be proper. Whenever the commissioner shall have reason to believe that an allowance has been improperly made or that the conditions have changed, he shall investigate or reinvestigate and may modify the award. The amount of each monthly allotment and allowance shall be determined according to the family conditions existing on the first day of the month: Provided, however, That whenever the commissioner shall by further investigation or reinvestigation modify the existing award, no reimbursement from the person receiving an allowance shall be required for allotments and allowances already paid nor shall any deductions be made from allotments and allowances to be paid in the future for any change in award made in previous allotments and allowances, except where it is conclusively shown that the person receiving the allowance does not bear the relationship to the enlisted man which is required by the Act and except in cases of manifest fraud. (Act Sept. 2, 1914, c. 293, § 210, as added by Acts Oct. 6, 1917, c. 105, § 2, 40 Stat. 404; June 25, 1918, c. 104, § 8, 40 Stat.; Feb. 25, 1919, c. 36.)

Termination of right to family allowances and allotments.—All allowances and allotments payable by the Bureau of War Risk Insurance under the authority of this article shall be discontinued at the end of the fourth calendar month after the termination of the present war emergency, as declared by proclamation of the President of the United States, and thereafter all allotments of pay shall be voluntary and shall be made under such regulations as may be prescribed by the Secretary of War and the Secretary of the Navy, respectively. (Act Sept. 2, 1914, c. 293, § 211, as added by Act Dec. 24, 1919, c. 16, § 9.)

ARTICLE III.—COMPENSATION FOR DEATH OR DISABILITY.

§ 10292. For what deaths or disabilities compensation payable.—For death or disability resulting from personal injury suffered or disease contracted in the line of duty, by any commissioned officer or enlisted man, or by any member of the Army Nurse Corps (female) or of the Navy Nurse Corps (female) when employed in the active service under the War Department or Navy Department, the United States shall pay compensation as hereinafter provided; but no compensation shall be paid if the injury or disease has been caused by his own willful misconduct: Provided, That for the purposes of this section said officer, enlisted man, or other member shall be held and taken to have been in sound condition when examined, accepted, and enrolled for service: Provided further, That this section, as amended, shall be deemed to become effective as of April 6, 1917. (Act Sept. 2, 1914, c. 293, § 300, as added by Acts Oct. 6, 1917, c. 105, § 2, 40 Stat. 405; June 25, 1918, c. 104, § 10, 40 Stat.; Dec. 24, 1919, c. 16, § 10a.)

§ 10293. Compensation for death.—If death results from injury—

If the deceased leaves a widow or child, or if he leaves a mother or father either or both dependent upon him for support, the monthly compensation shall be the following amounts:

- (a) If there is a widow but no child, \$25;
- (b) If there is a widow and one child, \$35;
- (c) If there is a widow and two children, \$42.50, with \$5 for each additional child up to two;
- (d) If there is no widow, but one child, \$20;
- (e) If there is no widow, but two children, \$30;
- (f) If there is no widow, but three children, \$40, with \$5 for each additional child up to two;
- (g) If there is a dependent mother (or dependent father), \$20, or both, \$30. The amount payable under this subdivision shall not exceed the difference between the total amount payable to the widow and children and the sum of \$75. This compensation shall be payable for the death of but one child, and no compensation for the death of a child shall be payable if the dependent mother is in receipt of compensation under the provisions of this article for the death of her husband. Such compensation shall be payable whether the dependency of the father or mother or both arises before or after the death of the person, but no compensation shall be payable if the dependency arises more than five years after the death of the person.

If death occur or shall have occurred subsequent to April 6, 1917, and before discharge or resignation from service, the United States shall pay for burial expenses and the return of body to his home a sum not to exceed \$100, as may be fixed by regulations.

The payment of compensation to a widow shall continue until her death or remarriage.

The payment of compensation to or for a child shall continue until such child reaches the age of eighteen years or marries, or if such child be incapable, because of insanity, idiocy, or being otherwise permanently helpless, then during such incapacity.

Whenever the compensation payable to or for the benefit of any person under the provisions of this section is terminated by the happening of the contingency upon which it is limited, the compensation thereafter for the remaining beneficiary or beneficiaries, if any, shall be the amount which would have been payable to them if they had been the sole original beneficiaries.

As between the widow and the children not in her custody, and as between the children, the amount of the compensation shall be apportioned as may be prescribed by regulation.

The term "widow" as used in this section shall not include one who shall have married the deceased later than ten years after the time of injury, and shall include a widower, whenever his condition is such that, if the deceased person were living, he would have been dependent upon her for support. (Act Sept. 2, 1914, c. 293, § 301, as added by Acts Oct. 6, 1917, c. 105, § 2, 40 Stat. 405; June 25, 1918, c. 104, § 11, 40 Stat. 609; Dec. 24, 1919, c. 16, § 10.)

Note 1.—Where this section is amended by striking out the provisions that a mother is entitled to compensation only when she is widowed and substitute provisions are included to the effect that compensation is payable to a dependent mother or dependent father, such substitute provisions are deemed to be in effect as of October 6, 1917, Act June 25, 1918, c. 104, § 15, 40 Stat.

Note 2.—This section "as amended, shall be deemed to be in effect as of April 6, 1917; Provided, however, That before compensation thereunder shall be paid there shall first be deducted from said sum so to be paid the amount of any payments such person may have received by way of gratuities or payments under pension laws in force and existence between April 6, 1917, and October 6, 1917," Act Dec. 24, 1919, c. 16, § 10, 41 Stat. 372.

§ 10294. Compensation for disability.—If disability results from the injury—

(1) If and while the disability is rated as total and temporary, the monthly compensation shall be the following amounts:

- (a) If the disabled person has neither wife nor child living, \$80.
- (b) If he has a wife but no child living, \$90.
- (c) If he has a wife and one child living, \$95.
- (d) If he has a wife and two or more children living, \$100.
- (e) If he has no wife but one child living, \$90, with \$5 for each additional child.
- (f) If he has a mother or father, either or both dependent on him for support, then, in addition to the above amounts, \$10 for each parent so dependent.

(2) If and while the disability is rated as partial and temporary, the monthly compensation shall be a percentage of the compensation that would be payable for his total and temporary disability, equal to the degree of the reduction in earning capacity resulting from the disability, but no compensation shall be payable for a reduction in earning capacity rated at less than 10 per centum.

(3) If and while the disability is rated as total and permanent, the rate of compensation shall be \$100 per month: Provided, however, That the loss of both feet, or both hands, or the sight of both eyes, or the loss of one foot and one hand, or one foot and the sight of one eye, or one hand and the sight of one eye, or becoming helpless and permanently bedridden, shall be deemed to be total, permanent disability: Provided further, That for double, total, permanent disability the rate of compensation shall be \$200 per month.

(4) If and while the disability is rated as partial and permanent, the monthly compensation shall be a percentage of the compensation that would be payable for his total and permanent disability equal to the degree of the reduction in earning capacity resulting from the disability, but no compensation shall be payable for a reduction in earning capacity rated at less than 10 per centum.

A schedule of ratings of reductions in earning capacity from specific injuries or combinations of injuries of a permanent nature shall be adopted and applied by the bureau. Ratings may be as high as 100 per centum. The ratings shall be based, as far as practicable, upon the average impairments of earning capacity resulting from such injuries in civil occupations and not upon the impairment in earning capacity in each individual case, so that there shall be no reduction in the rate of compensation for individual success in overcoming the handicap of a permanent injury. The bureau in adopting the schedule of ratings of reduction in earning capacity shall consider the impairment in ability to secure employment which results from such injuries. The bureau shall from time to time readjust this schedule of rating in accordance with actual experience.

(5) If the disabled person is so helpless as to be in constant need of a nurse or attendant, such additional sum shall be paid, but not exceeding \$20 per month, as the director may deem reasonable.

on to the compensation above provided, the injured person furnished by the United States such reasonable governmental medical, and hospital services and with such supplies, including 456 wheelchairs, artificial limbs, trusses, and similar appliances, as the director may determine to be useful and reasonably necessary, which wheelchairs, artificial limbs, trusses, and similar appliances may be procured by the Bureau of War Risk Insurance in such manner, either by purchase or manufacture, as the director may determine to be advantageous and reasonably necessary: Provided, That nothing in this Act shall be construed to affect the necessary military control over any member of the military or naval establishments before he shall have been discharged from the military or naval service.

(7) Where the disabled person and his wife are not living together, or where the children are not in the custody of the disabled person the amount of the compensation shall be apportioned as may be prescribed by regulations.

(8) The term "wife" as used in this section shall include "husband" if the husband is dependent upon the wife for support.

(9) That the Bureau of War Risk Insurance is hereby authorized to furnish transportation, also the medical, surgical, and hospital services and the supplies and appliances provided by subdivision (6) hereof, to discharged members of the military or naval forces of those Governments which have been associated in war with the United States since April 6, 1917, and come within the provisions of laws of such Governments similar to the War Risk Insurance Act, at such rates and under such regulations as the Director of the Bureau of War Risk Insurance may prescribe; and the Bureau of War Risk Insurance is hereby authorized to utilize the similar services, supplies, and appliances provided for the discharged members of the military and naval forces of those Governments which have been associated in war with the United States since April 6, 1917, by the laws of such Governments similar to the War Risk Insurance Act, in furnishing the discharged members of the military and naval forces of the United States who live within the territorial limits of such Governments and come within the provisions of subdivision (6) hereof, with the services, supplies, and appliances provided for in such subdivision; and any appropriations that have been or may hereafter be made for the purpose of furnishing the services, supplies, and appliances provided for by subdivision (6) hereof are hereby made available for the payment to such Governments or their agencies for the services, supplies, and appliances so furnished at such rates and under such regulations as the Director of the Bureau of War Risk Insurance may prescribe.

(10) That section 302 of the War Risk Insurance Act as amended shall be deemed to be in effect as of April 6, 1917: Provided, That any person who is now receiving a gratuity or pension under existing law shall not receive compensation under this Act unless he shall first surrender all claim to such gratuity or pension. (Acts Sept. 2, 1914, c. 293, § 302, as added by Acts Oct. 6, 1917, c. 105, § 2, 40 Stat. 406; June 25, 1918, c. 104, §§ 12, 13, 14, 40 Stat.; Aug. 6, 1919, c. 33, § 1; Dec. 24, 1919, c. 16, § 11.)

§ 10294a. Death or disability before entrance on active service.—A new section is hereby added to the War Risk Insurance Act, to be known as section 31, and to read as follows:

If after induction by the local draft board, but before being accepted and enrolled for active service, the person died or became disabled as a result of disease contracted or injury suffered in the line of duty and not due to his own willful misconduct involving moral turpitude, or as a result of the aggravation, in the line of duty and not because of his own willful misconduct involving moral turpitude, of an existing disease or injury, he or those entitled thereto shall receive the benefits of compensation payable under Article III: Provided, That any insurance application made by a person after induction by the local draft board but before being accepted and enrolled for active service shall be deemed valid. (Act Sept. 2, 1914, c. 293, § 31, as added by Act Dec. 24, 1919, c. 16, § 7.)

ARTICLE IV.—INSURANCE.

§ 10307. Application for insurance.—Such insurance must be applied for within one hundred and twenty days after enlistment or after entrance into or employment in the active service and before discharge or resignation, except that those persons who are in the active war service at the time of the publication of the terms and conditions of such contract of insurance may apply at any time within one hundred and twenty days thereafter and while in such service: Provided, That any person in the active service on or after the 6th day of April, 1917, and before the 11th day of November, 1918, who while in such active service made application for insurance after the expiration of more than one hundred and twenty days after October 15, 1917, or more than one hundred and twenty days after entrance into or employment in the active service, and whose application was accepted and a policy issued thereon, and from whom premiums were collected, and who becomes or had become totally and permanently disabled, or dies or has died, shall be deemed to have made legal application for such insurance and the policy issued on such application shall be valid. Any person in the active service on or after the 6th day of April, 1917, and before the 11th day of November, 1918, who, while in such service, and before the expiration of one hundred and twenty days after October 15, 1917, or one hundred and twenty days after entrance into or employment in the active service, becomes or has become totally and permanently disabled, or dies or has died, without having applied for insurance, shall be deemed to have applied for and to have been granted insurance, payable to such person during his life in monthly installments of \$25 each; and any person inducted into the service by a local draft board after the 6th day of April, 1917, and before the 11th day of November, 1918, who, while in such service, and before being accepted and enrolled for active military or naval service, becomes or has become totally and permanently disabled, or dies or has died, without having applied for insurance, shall be deemed to have applied for and to have been granted insurance, payable to such person during his life in monthly installments of \$25 each. If he shall die either before he shall have received any of such monthly installments or before he shall have received two hundred and forty of such monthly installments, then \$25 per month shall be paid to his widow from the time of his death and during her widowhood; or if there is no widow surviving him, then to his child or children; or if there is no child surviving him, then to his mother; or if there be no mother surviving him, then to his father, if and while they survive him: Provided, however, That no more than two hundred and forty of such monthly installments, including those received by such person during his total and permanent disability, shall be so paid. The amount of the monthly installments shall be apportioned between children as may be provided by regulations: Provided further, That each officer and enlisted man attached to the United States ship Cyclops on the 4th day of March, 1918, and every officer and enlisted man who on said date was a passenger on said vessel shall be deemed to have been granted insurance in the sum of \$5,000 permitted under the War Risk Insurance Act. (Act Sept. 2, 1914, c. 293, § 401, as added by Acts Oct. 6, 1917, c. 105, § 2, 40 Stat. 409; June 25, 1918, c. 104, § 19, 40 Stat.; Dec. 24, 1919, c. 16, § 12.)

§ 10310a. Who may be beneficiaries.—The permitted class of beneficiaries for insurance as specified in section 402 of the War Risk Insurance Act is hereby enlarged so as to include, in addition to the persons therein enumerated, uncles, aunts, nephews, nieces, brothers-in-law and sisters-in-law of the insured. This section shall be deemed to be in effect as of October 6, 1917: Provided, That nothing herein shall be construed to interfere with the payment of the monthly installments authorized to be made under the provisions of said War Risk Insurance Act, as originally enacted and subsequently amended, up to and including the second calendar month after the passage of this Act: Provided further, That all awards of insurance under the provisions of the said War Risk Insurance Act, as originally enacted and subsequently amended, shall be revised as of the first day of the third calendar month after the passage of this Act, in accordance with the provisions of the said War Risk Insurance Act as modified by this amendatory Act. (Act Dec. 24, 1919, c. 16, § 13.)

§ 10310b. Payment to estate where no surviving beneficiary.—If no person within the permitted class of beneficiaries survive the insured, then there shall be paid to the estate of the insured the monthly installments payable and applicable under the provisions of Article IV of the War Risk Insurance Act. (Act Dec. 24, 1919, c. 16, § 14.)

§ 10310c. Death or termination of right of beneficiary after death of insured.—If any person to whom such yearly renewable term insurance has been awarded dies, or his rights are otherwise terminated after the death of the insured, but before all of the two hundred and forty monthly installments have been paid, then the monthly installments payable and applicable shall be payable to such person or persons within the permitted class of beneficiaries as would, under the laws of the State of residence of the insured, be entitled to his personal property in case of intestacy; and if the permitted class of beneficiaries be exhausted before all of the two hundred and forty monthly installments have been paid, then there shall be paid to the estate of the last surviving person within the permitted class the remaining unpaid monthly installments. (Act Dec. 24, 1919, c. 16, § 15.)

§ 10310d. Beneficiaries of or payment of converted insurance.—If no beneficiary within the permitted class be designated by the insured as beneficiary for converted insurance, granted under the provisions of Article IV of the War Risk Insurance Act, either in his lifetime or by his last will and testament, or if the designated beneficiary does not survive the insured, then there shall be paid to the estate of the insured the remaining unpaid monthly installments; or if the designated beneficiary survives the insured and dies before receiving all of the installments of converted insurance payable and applicable, then there shall be paid to the estate of such beneficiary the remaining unpaid monthly installments. (Act Dec. 24, 1919, c. 16, § 16.)

§ 10312a. Provisions of contract conversion.—The Bureau of War Risk Insurance may make provision in the contract for converted insurance for optional settlements, to be selected by the insured, whereby such insurance may be made payable either in one sum or in installments for thirty-six months or more. The bureau may also include in said contract a provision authorizing the beneficiary to elect to receive payment of the insurance in installments for thirty-six months or more, but only if the insured has not exercised the right of election as hereinbefore provided; and even though the insured may have exercised his right of election, the said contract may authorize the beneficiary to elect to receive such insurance in installments spread over a greater period of time than that selected by the insured. (Act Dec. 24, 1919, c. 16, § 17.)

§ 10312b. Premiums on converted insurance.—All premiums paid on account of insurance converted under the provisions of Article IV of the War Risk Insurance Act shall be deposited and covered into the Treasury to the credit of the United States Government life insurance fund and shall be available for the payment of losses, dividends, refunds, and other benefits provided for under such insurance. Payments from this fund shall be made upon and in accordance with awards by the director.

The Bureau of War Risk Insurance is hereby authorized to set aside out of the fund so collected such reserve funds as may be required, under accepted actuarial principles, to meet all liabilities under such insurance; and the Secretary of the Treasury is hereby authorized to invest and reinvest the said United States Government life insurance fund, or any part thereof, in interest-bearing obligations of the United States and to sell the obligations for the purposes of said fund. (Act Dec. 24, 1919, c. 16, § 18.)

§ 10312c. When payment of allotment, family allowance, compensation, or insurance made to estate of decedent.—The amount of the monthly installments of allotment and family allowance, compensation, or yearly renewable term insurance which has become payable under the provisions of the War Risk Insurance Act but which has not been paid prior to the death of the person entitled to receive the same may be payable to the personal representatives of the deceased person. (Act Dec. 24, 1919, c. 16, § 19.)

§ 10312d. Credit in accounts of disbursing clerk for payment of premiums.—For such reasonable time as may be fixed by the Secretary of the Treasury, but not extending beyond the fiscal year ending June thirtieth, nineteen hundred and twenty-one, the accounting officers of the Treasury are hereby authorized and directed to allow credit in the accounts of the disbursing clerk of the Bureau of War Risk Insurance for all payments of insurance installments heretofore or hereafter made under the provisions of Article IV of the War Risk Insurance Act in advance of the verification of the deduction on the pay rolls, or of the payment otherwise, of all premiums. (Res. Feb. 26, 1919, c. 53; Res. May 26, 1920, c. 207.)

CHAPTER 6.

SOLDIERS AND SAILORS CIVIL RELIEF.

§ 10317a. Affidavit of nonservice.—Where any judgment has been entered since March 8, 1918, in any action or proceeding commenced in any court where there has been a failure to file in such action the affidavits required by section 200 of Article II of the Act approved March 8, 1918, entitled "An Act to extend protection to the civil rights of members of the Military and Naval Establishments of the United States engaged in the present war" (Fortieth Statutes at Large, page 440), the plaintiff, after such notice as the courts may prescribe, may file an affidavit stating that the defendant, or defendants, in default in such judgments, are not at the time of such filing, and were not at the time of the entry of such judgment, in the naval or military service of the United States, and upon the filing of such affidavit the court may enter an order that such judgment, if otherwise legal, shall stand and be effective as of the date of the entry of such judgment as if such affidavit had been duly filed. Any person who shall make or use such an affidavit as aforesaid, knowing it to be false, shall be punishable by imprisonment not to exceed two years or by fine not to exceed \$5,000, or both, in the discretion of the court. (Act Sept. 3, 1919, c. 55, § 1.)

CHAPTER 7.

VOCATIONAL REHABILITATION OF SOLDIERS AND SAILORS.

§ 10350. What vocational rehabilitation afforded.—Every person enlisted, enrolled, drafted, inducted, or appointed in the military or naval forces of the United States, including members of training camps authorized by law, who, since April 7, 1917, has resigned or has been discharged or furloughed therefrom under honorable conditions, having a disability incurred, increased, or aggravated while a member of such forces, or later developing a disability traceable in the opinion of the board to service with such forces, and who, in the opinion of the Federal Board for Vocational Education, is in need of vocational rehabilitation to overcome the handicap of such disability, shall be furnished by the said board, where vocational rehabilitation is feasible, such course of vocational rehabilitation as the board shall prescribe and provide.

The board shall have the power, and it shall be its duty, to furnish the persons included in this section suitable courses of vocational rehabilitation, to be prescribed and provided by the board; and every person electing to follow such a course of vocational rehabilitation shall, while following the same, be paid monthly by the said board from the appropriation hereinafter provided such sum as in the judgment of the said board is necessary for his maintenance and support and for the maintenance and support of persons depending upon him, if any: Provided, however, That in no event shall the sum so paid such person while pursuing such course be more than \$80 per month for a single man without dependents, or for a man with dependents \$100 per month plus the several sums prescribed as family allowances under section 204 of Article II of the War Risk Insurance Act.

No compensation under Article III of the Act entitled "An Act to amend an Act entitled 'An Act to authorize the establishment of a Bureau of War Risk Insurance in the Treasury Department,'" approved October 6, 1917, shall be paid for the period during which any such person is being furnished

by said board a course of vocational rehabilitation and support as herein authorized: Provided, however, That in the event any person pursuing a course of vocational rehabilitation is entitled under said Article III to compensation in an amount in excess of the payments made to him by the said board for his support and the support of his dependents, if any, the Bureau of War Risk Insurance shall pay monthly to such person such additional amount as may be necessary to equal the total compensation due under said Article III of said Act.

There is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, available immediately and until expended, the sum of \$6,000,000, or so much thereof as may be necessary, to be used by the Federal Board for Vocational Education for the purpose of making the payments prescribed by this section and for defraying the administrative expenses incident thereto. (Acts June 27, 1918, c. 107, § 2, 40 Stat.; July 11, 1919, c. 12, § 1.)

§ 10355a. Use of funds for needs of disabled men.—The special fund for vocational education, authorized by section seven of the vocational rehabilitation Act, approved June twenty-seventh, nineteen hundred and eighteen, together with the items of appropriation made by said Act, are hereby made available, in addition to the purposes therein prescribed, for such other expenses as in the discretion of the board is deemed necessary and proper for the payment of necessary travel, lodging, subsistence, and other expenses of disabled men while under investigation by the board to determine their eligibility for training under the Act, and the purchase of supplies, equipment, and clothing for disabled men when ready to enter employment, and the traveling expenses of such men to place of employment and for supplementing any or all of the other items of appropriation made by said Act. (Act Feb. 26, 1919, c. 46.)

§ 10356. Appropriation for enforcement of statute.

Note.—Act Nov. 4, 1919, c. 93, § 1, makes further appropriation "an additional amount for carrying out the provisions of the Act entitled 'An Act to provide for the vocational rehabilitation and return to civil employment of disabled persons discharged from the military or naval forces of the United States, and for other purposes,' approved June 27, 1918, as amended, including personal services in the District of Columbia and elsewhere, printing and binding to be done at the Government Printing Office, law books of reference, and periodicals, \$5,000,000: Provided, That the salary limitations prescribed by the item of appropriation for vocational rehabilitation contained in the Sundry Civil Act, approved July 19, 1919, shall apply to the appropriation hereby made."

§ 10356a. Limitations on use of appropriations.—The salary limitations placed upon the appropriation for vocational rehabilitation by the Sundry Civil Appropriation Act, approved July 19, 1919, shall apply to the appropriation herein made: Provided further, That the board may, after June 30, 1920, pay, subject to the conditions and limitations prescribed by section 2 of the Vocational Rehabilitation Act as amended, to all trainees undergoing training under said section residing where maintenance and support is above the average and comparatively high, in lieu of the monthly payments for maintenance and support prescribed by section 2, as amended, such sum as in the judgment of the said board is necessary for his maintenance and support and for the maintenance and support of persons dependent upon him, if any: Provided, however, That in no event shall the sum so paid such person while pursuing such course be more than \$100 per month for a single man without dependents, or for a man with dependents \$120 per month, plus the several sums prescribed as family allowances under section 204 of Article II of the War Risk Insurance Act. (Act June 5, 1920, c. 253.)

Note.—§ 2, so referred to, is § 10350, Barnes' Federal Code.

CHAPTER 8.

MISCELLANEOUS PROVISIONS NOT INCLUDED ELSEWHERE
HEREIN.

§ 10362. Transferred and made § 8350a.

§ 10364. Incorporated in § 3700b.

§ 10365. Incorporated in notes to § 3700.

§ 10369. Fisheries.

Note.—Act Nov. 4, 1919, c. 93, § 1, provides that "commutation of rations not to exceed \$1 per day may be paid to officers and crews of vessels of the Bureau of Fisheries during the fiscal year 1920 under regulations prescribed by the Secretary of Commerce."

§ 10374. Amendment of R. S., § 3528, on purchase of metal for minor coinage.

Note.—This amendment, by Act Dec. 2, 1918, c. 213, is incorporated herein at § 5774.

§ 10375. Food and supplies for European countries.—For the participation by the Government of the United States in the furnishing of foodstuffs and other urgent supplies, and for the transportation, distribution, and administration thereof to such populations in Europe, and countries contiguous thereto, outside of Germany, German-Austria, Hungary, Bulgaria, and Turkey: Provided, however, That Armenians, Syrians, Greeks, and other Christian and Jewish populations of Asia Minor, now or formerly subjects of Turkey may be included within the populations to receive relief under this Act, as may be determined upon by the President from time to time as necessary, and for each and every purpose connected therewith, in the discretion of the President, there is appropriated out of any money in the Treasury not otherwise appropriated, \$100,000,000, which may be used as a revolving fund until June thirtieth, nineteen hundred and nineteen, and which shall be audited in the same manner as other expenditures of the Government: Provided, That expenditures hereunder shall be reimbursed so far as possible by the Government or subdivisions thereof or the peoples to whom relief is furnished: Provided further, That a report of the receipts, expenditures and an itemized statement of such receipts and expenditures made under this appropriation shall be submitted to Congress not later than the first day of the next regular session: And provided further, That so far as said fund shall be expended for the purchase of wheat to be donated preference shall be given to grain grown in the United States. (Act Feb. 25, 1919, c. 38.)

§ 10376. Transfer of office equipment falling into disuse on termination of war.—For salaries of employees, office equipment, fuel, light, electric current, telephone service, maintenance of motor trucks, and other necessary expenses for carrying into effect the Executive order of December 3, 1918, regulating the transfer of office material, supplies, and equipment in the District of Columbia falling into disuse because of the cessation of war activities, \$100,000, to continue available during the fiscal year 1920: Provided, That no person shall be employed hereunder at a rate of compensation in excess of \$2,500 per annum and not more than three persons shall be employed at a rate in excess of \$1,800 per annum each: Provided further, That the said Executive order shall continue in effect until June 30, 1920, without modification except that proceeds from the transfer of appropriations thereunder shall be covered into the Treasury as miscellaneous receipts: Provided further, That the heads of the executive departments and independent establishments and the commissioners of the District of Columbia shall cooperate with the Secretary of the Treasury in connection with the storage and delivery of material, supplies, and equipment transferred under the foregoing order: Provided further, That the Secretary of War is authorized and directed to transfer to the Secretary of the Treasury without payment therefor three heavy motor trucks for use of the General Supply Committee. (Act Feb. 25, 1919, c. 39, § 1.)

§ 10377. Retention of uniform and personal equipment by persons serving in existing war.—Any person who served in the United States Army, Navy, or Marine Corps in the present war may, upon honorable discharge and return to civil life, permanently retain one complete suit of outer uniform clothing, including the overcoat, and such articles of personal apparel and equipment as may be authorized, respectively, by the Secretary of War or the Secretary of the Navy, and may wear such uniform clothing after such discharge: Provided, That the uniform above referred to shall include some distinctive mark or insignia to be prescribed, respectively by the Secretary of War or the Secretary of the Navy, such mark or insignia to be issued, respectively, by the War Department or Navy Department to all enlisted personnel so discharged. The word "Navy" shall include the officers and enlisted personnel of the Coast Guard who have served with the Navy during the present war.

The provisions of this Act shall apply to all persons who served in the United States Army, Navy, or Marine Corps during the present war honorably discharged since April sixth, nineteen hundred and seventeen. And in cases where such clothing and uniforms have been restored to the Government on their discharge the same or similar clothing and uniform in kind and value as near as may be shall be returned and given to such soldiers, sailors, and marines. (Act Feb. 28, 1919, c. 70, §§ 1, 2.)

§ 10377a. Pay and allowances of Army nurses, clerks and civilian employees during captivity in existing war.—Members of the Army Nurse Corps (female) or of the Navy Nurse Corps (female), Army field clerks, field clerks, Quartermaster Corps, and civil employees of the Army, shall be entitled to full pay and allowances during any period of involuntary captivity by the enemy of the United States; and their right to such full pay and allowances shall not be abridged or lost by reason of absence from duty when that absence is caused by involuntary captivity by the enemy of the United States. Any captivity by the enemy shall be construed to be involuntary until the contrary shall be affirmatively established. All rights and privileges hereunder shall be in force from April sixth, nineteen hundred and seventeen, to the end of the existing war. (Act March 3, 1919, c. 112.)

§ 10378. Relief in cases of war contracts.—The Secretary of War be, and he is hereby, authorized to adjust, pay, or discharge any agreement, express or implied, upon a fair and equitable basis that has been entered into, in good faith during the present emergency and prior to November twelfth, nineteen hundred and eighteen, by any officer or agent acting under his authority, direction, or instruction, or that of the President, with any person, firm or corporation for the acquisition of lands, or the use thereof, or for damages resulting from notice by the Government of its intention to acquire or use said lands, or for the production, manufacture, sale, acquisition or control of equipment, materials or supplies, or for services, or for facilities, or other purposes connected with the prosecution of the war, when such agreement has been performed in whole or in part, or expenditures have been made or obligations incurred upon the faith of the same by any such person, firm, or corporation prior to November twelfth, nineteen hundred and eighteen, and such agreement has not been executed in the manner prescribed by law: Provided, That in no case shall any award either by the Secretary of War, or the Court of Claims include prospective or possible profits on any part of the contract beyond the goods and supplies delivered to and accepted by the United States and a reasonable remuneration for expenditures and obligations or liabilities necessarily incurred in performing or preparing to perform said contract or order: Provided further, That this Act shall not authorize payment to be made of any claim not presented before June thirtieth, nineteen hundred and nineteen: And provided further, That the Secretary of War shall report to Congress at the beginning of its next session following June thirtieth, nineteen hundred and nineteen, a detailed statement showing the nature, terms, and conditions of every such agreement and the payment or adjustment thereof: And provided further, That no settlement of any claim arising under any such agreement shall bar the United States Government through any of its duly authorized agencies, or any committee of Congress hereafter duly appointed, from the right of review of such settlement, nor the right of recovery of

any money paid by the Government to any party under any settlement entered into, or payment made under the provisions of this Act, if the Government has been defrauded, and the right of recovery in all such cases shall exist against the executors, administrators, heirs, successors, and assigns, of any party or parties: And provided further, That nothing in this Act shall be construed to relieve any officer or agent of the United States from criminal prosecution under the provisions of any statute of the United States for any fraud or criminal conduct: And provided further, That this Act shall in no way relieve or excuse any officer or his agent from such criminal prosecution because of any irregularity or illegality in the manner of the execution of such agreement: And provided further, That in all proceedings hereunder witnesses may be compelled to attend, appear, and testify, and produce books, papers and letters, or other documents; and the claim that any such testimony or evidence may tend to criminate the person giving the same shall not excuse such witness from testifying but such evidence or testimony shall not be used against such person in the trial of any criminal proceeding. (Act March 2, 1919, c. 94, § 1.)

§ 10379. Jurisdiction of Court of Claims in such cases.—The Court of Claims is hereby given jurisdiction on petition of any individual, firm, company or corporation referred to in section 1 hereof, to find and award fair and just compensation in the cases specified in said section in the event that such individual, firm, company or corporation shall not be willing to accept the adjustment, payment or compensation offered by the Secretary of War as hereinbefore provided, or in the event that the Secretary of War shall fail or refuse to offer a satisfactory adjustment, payment or compensation as provided for in said section. (Act March 2, 1919, c. 94, § 2.)

Note.—§ 1 is now § 10378.

§ 10380. Adjustment of foreign war contracts.—The Secretary of War, through such agency as he may designate or establish is empowered, upon such terms as he or it may determine to be in the interest of the United States, to make equitable and fair adjustments and agreements, upon the termination or in settlement or readjustment of agreements or arrangements entered into with any foreign government or governments or nationals thereof, prior to November twelfth, nineteen hundred and eighteen, for the furnishing to the American Expeditionary Forces or otherwise for War purposes of supplies, materials, facilities, services or the use of property, or for the furnishing of any thereof by the United States to any foreign government or governments, whether or not such agreements or arrangements have been entered into in accordance with applicable statutory provisions; and the other provisions of this Act shall not be applicable to such adjustments. (Act March 2, 1919, c. 94, § 3.)

§ 10381. Protection of subcontractors.—Whenever, under the provisions of this Act, the Secretary of War shall make an award to any prime contractor with the respect to any portion of his contract which he shall have sublet to any other person, firm, or corporation who has in good faith made expenditures, incurred obligations, rendered service, or furnished material, equipment, or supplies to such prime contractor, with the knowledge and approval of any agent of the Secretary of War duly authorized thereunto, before payment of said award the Secretary of War shall require such prime contractor to present satisfactory evidence of having paid said subcontractor or of the consent of said subcontractor to look for his compensation to said prime contractor only; and in the case of the failure of said prime contractor to present such evidence or such consent, the Secretary of War shall pay directly to said subcontractor the amount found to be due under said award; and in case of the insolvency of any prime contractor the subcontractor of said prime contractor shall have a lien upon the funds arising from said award prior and superior to the lien of any general creditor of said prime contractor. (Act March 2, 1919, c. 94, § 4.)

§ 10382. Payment of net losses sustained by producers of ores and minerals for war purposes.—That the Secretary of the Interior be, and he hereby is, authorized to adjust, liquidate, and pay such net losses as have been suffered by any person, firm, or corporation, by reason of producing or preparing to produce, either manganese, chrome, pyrites, or tungsten in compliance

with the request or demand of the Department of the Interior, the War Industries Board, the War Trade Board, the Shipping Board, or the Emergency Fleet Corporation to supply the urgent needs of the Nation in the prosecution of the war; said minerals being enumerated in the Act of Congress approved October fifth, nineteen hundred and eighteen, entitled "An Act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of those ores, metals, and minerals which have formerly been largely imported, or of which there is or may be an inadequate supply."

The said Secretary shall make such adjustments and payments in each case as he shall determine to be just and equitable; that the decision of said Secretary shall be conclusive and final, subject to the limitation hereinafter provided; that all payments and expenses incurred by said Secretary, including personal services, traveling and subsistence expenses, supplies, postage, printing, and all other expenses incident to the proper prosecution of this work, both in the District of Columbia and elsewhere, as the Secretary of the Interior may deem essential and proper, shall be paid from the funds appropriated by the said Act of October fifth, nineteen hundred and eighteen, and that said funds and appropriations shall continue to be available for said purpose until such time as the said Secretary shall have fully exercised the authority herein granted and performed and completed the duties hereby provided and imposed: Provided, however, That the payments and disbursements made under the provisions of this section for and in connection with the payments and settlements of the claims herein described, and the said expenses of administration shall in no event exceed the sum of \$8,500,000: And provided further, That said Secretary shall consider, approve, and dispose of only such claims as shall be made hereunder and filed with the Department of the Interior within three months from and after the approval of this Act: And provided further, That no claim shall be allowed or paid by said Secretary unless it shall appear to the satisfaction of the said Secretary that the expenditures so made or obligations so incurred by the claimant were made in good faith for or upon property which contained either manganese, chrome, pyrites, or tungsten in sufficient quantities to be of commercial importance: And provided further, That no claims shall be paid unless it shall appear to the satisfaction of said Secretary that moneys were invested or obligations were incurred subsequent to April sixth, nineteen hundred and seventeen, and prior to November twelfth, nineteen hundred and eighteen, in a legitimate attempt to produce either manganese, chrome, pyrites, or tungsten for the needs of the Nation for the prosecution of the war, and that no profits of any kind shall be included in the allowance of any of said claims, and that no investment for merely speculative purposes shall be recognized in any manner by said Secretary: And provided further, That the settlement of any claim arising under the provisions of this section shall not bar the United States Government, through any of its duly authorized agencies, or any committee of Congress hereafter duly appointed, from the right of review of such settlement, nor the right to recover any moneys paid by the Government to any party under and by virtue of the provisions of this section, if the Government has been defrauded, and the right of recovery in all such cases shall extend to the executors, administrators, heirs, and assigns of any party.

A report of all operations under this section, including receipts and disbursements, shall be made to Congress on or before the first Monday in December of each year.

Nothing in this section shall be construed to confer jurisdiction upon any court to entertain a suit against the United States: Provided further, That in determining the net losses of any claimant the Secretary of the Interior shall, among other things, take into consideration and charge to the claimant, the then market value of any ores or minerals on hand belonging to the claimant, and also the salvage or usable value of any machinery or other appliances which may be claimed was purchased to equip said mine for the purpose of complying with the request or demand of the agencies of the Government above mentioned in the manner aforesaid. (Act March 2, 1919, c. 94, § 5.)

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